

# NOTICE OF MEETING

Planning and Zoning Commission  
February 9, 2011  
Cochise County Complex  
Board of Supervisors Hearing Room  
1415 W. Melody Lane, Building G  
Bisbee, Arizona

## AGENDA

### 4:00 P.M. CALL TO ORDER

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.**

**ROLL CALL** (Introduce Commission members, explain quorum and requirements for taking legal action.)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes, other persons will each have 5 minutes to speak and Applicant can have 5 minutes for rebuttal at end.)

**APPROVAL OF PREVIOUS MINUTES** - (Call for motion to approve the minutes of the December 8, 2010 Meeting)

**CALL TO THE PUBLIC** (Ask if any member of the public wishes to speak on any item not already on the agenda).

## NEW BUSINESS

### **Item 1 (Page 1) - Introduce Docket and advise public who the applicants are.**

**Public Hearing, Docket SU-11-01:** The Applicant seeks a Special Use authorization from the Planning and Zoning Commission for a Cultural, Nature or Historic Exhibit, per Section 607.31 of the Zoning Regulations. A Bed and Breakfast exists on the property (Ash Canyon B&B). The Special Use would legitimize the use of the property by bird watchers, some of whom are B&B guests, as well as to members of the public not staying at the B&B. The Applicant proposes no new construction as part of the Application. The subject parcel (Parcel No. 104-21-022) is located 5255 E. Spring Road in Hereford, AZ.

**Applicant:** Mary Jo Ballator.

- Call for PLANNING DIRECTOR'S REPORT
- Call for APPLICANT'S STATEMENT
- Declare PUBLIC HEARING OPEN
  - Call For COMMENT FROM OTHER PERSONS (either in favor or against)
  - Call for APPLICANT'S REBUTTAL (if APPROPRIATE)
- Declare PUBLIC HEARING CLOSED
- Call for COMMISSION DISCUSSION (May ask questions of the applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION
- Call for QUESTION

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

## **Item 2**

### **Election of Officers**

#### **DIRECTOR'S REPORT ON PENDING AND RECENT MATTERS AND FUTURE AGENDA ITEMS**


1. Board of Supervisors' Actions
2. Next and potential future month's Dockets

#### **CALL TO COMMISSIONERS ON RECENT MATTERS**

#### **ADJOURNMENT**

**COCHISE COUNTY PLANNING & ZONING COMMISSION  
MINUTES**

Wednesday, December 8, 2010

 The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Chair Basnar at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona in the Board of Supervisors Board Room.

**ROLL CALL**

Chair Basnar noted the presence of a quorum. He then introduced the Commissioners to the public. Chair Basnar then explained to the audience the procedures for considering a docket.

**Roll Call**

**Present:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

**Absent/Excused:** Cruz Silva, Rusty Harguess.

**APPROVAL OF THE MINUTES**

**Motion:** Approve the minutes of November meeting, **Action:** Approve, **Moved by** Duane Brofer, **Seconded by** Jim Martzke.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

**CALL TO THE PUBLIC**

Chair Basnar opened the meeting to the public, being there was no one who wished to speak, Chair Basnar closed the "Call to the Public"

**Item 1**

**Docket S-05-05 La Marquesa Subdivision:** Planner Keith Dennis presented the docket for a request for approval of an additional one-year time extension for the La Marquesa Subdivision Tentative Plat. He further stated staff supports the request for the extension. Mr. Dennis then explained the request for the waiver from the Sierra Vista Sub-watershed condition, and staff does not support the request for a waiver.

Chair Basnar asked for the applicants comments.

Patrick Kirk, Applicant, stated the economy foretells there will be more wash out in the housing market. He further explained how the water system will work in his subdivision.

Mr. Dennis stated the waiver request was tabled and asked the Commission to un-table the request.

**Motion:** Remove S-05-05 off the table, **Action:** Remove from Table, **Moved by** Duane Brofer, **Seconded by** Jim Lynch.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

Commissioner Martzke stated he feels the waiver request should be denied.

Commissioner Lynch stated he feels large subdivisions need to address the water issues from the beginning.

Mr. Brofer stated he feels the application should be allowed to expire and start again when the economy turns.

Commissioner Basnar stated he agrees with Mr. Brofer.

**Motion:** Motion to approve the request for a waiver of requiring a water company for the subdivision., **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Gary Brauchla.

**Vote:** Motion failed (**summary:** Yes = 0, No = 7, Abstain = 0).

**No:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

**Motion:** Motion to approve the request for a one year time extension to February 2012 for S-05-05., **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Gary Brauchla.

**Vote:** Motion passed (**summary:** Yes = 5, No = 2, Abstain = 0).

**Yes:** Jim Martzke, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

**No:** Duane Brofer, Lee Basnar.

## Item 2

**Docket SU-10-18:** Planner Keith Dennis presented the docket for a Special Use Permit for Manufacturing in an RU-4 District, activity area not to exceed 5,000 square feet, per Section 607.16 of the Zoning Regulations. The proposed business is a custom motorcycle building business in a 40' x 60' building on a 39 acre parcel, which the Applicant maintains would result in one to three cycles built on the property per year, to be delivered off-site after construction. The subject parcel (Parcel No. 110-60-003) is located at 3837 S. Yoruba Basin Trail, between Tombstone and Bisbee, AZ. Mr. Dennis presented photos of the property and explained the zoning in the area. He further stated staff has received 1 letter in support and one letter in opposition, gave explained the other factors in favor and factors against.

Chair Basnar asked for the applicant's statement.



Phil Korte, Applicant, stated the neighbor's all work together to maintain the road. He further stated he has a manufacturing license which requires he have a commercial building, which triggered the Special Use.

Chair Basnar opened the meeting to the public, being no one wished to speak, he closed the meeting to the public.

Mr. Dennis stated staff recommends conditional approval with the conditions stated in the staff report.

**Motion:** Motion to approve SU-10-18 with the conditions in the staff report, factors in favor being the findings of fact, **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

### Item 3

**Docket SU-10-19:** Planning Manager Michael Turisk presented the docket for a Special Use Permit in a General Business zoning district adjacent to incorporated Willcox to establish and operate a mini-mix concrete batch manufacturing and sales facility, per Section 1205.01 (manufacturing, wholesaling, warehousing, distribution or storage of goods) of the Zoning Regulations. The subject property (Parcel No. 203-40-002) is currently used for retail sales of construction materials such as sand and gravel, and is located at 920 S. Haskell Ave., a paved ADOT-maintained road. Mr. Turisk presented maps showing the zoning in the area, and photos of the property. Mr. Turisk presented five factors in favor and two factors against; he stated staff had received one letter in support and no letters in opposition.

Chair Basnar asked for the applicant's statement

Matthew W. Klump, Applicant, stated the parcel is a 25 acre parcel, not a 29 acre parcel. He stated the area will be covered with gravel to control the dust, but water may also need to be used to maintain dust. He further stated he did not want to be locked into Monday through Friday as he may need to delivered material on Saturday.

Chair Basnar opened the meeting to the public, being no one wished to speak, he closed the meeting to the public.

Mr. Turisk stated staff recommended conditional approval with the conditions stated in the staff report.

Commissioner Martzke asked that he would like condition #4 to read "The Applicant shall generally adhere to the hours of operation indicated on the submitted Special Use Application (6am to 5pm; five days per week)"

Mr. Klump stated he would like to delete condition #4 because he owns all the adjacent residential land.

**Motion:** Motion to approve S-10-19 with recommendations as stated in the staff memorandum, deleting condition #4, with the modifications, **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

**Docket SU-10-18:** Planner Keith Dennis explained to the Commission that the modifications asked for by the applicant for SU-10-18 were not approved by the Commission.

**Motion:** Approve the modifications to SU-10-18 as stated in the staff report. **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

#### Item 4

**Docket R-09-02:** Zoning Administrator Rick Corley presented the docket for consideration of adoption of a new ordinance entitled the "Cochise County Hazard Abatement Ordinance" to abate/remove rubbish, trash, weeds, filth, debris or damaged or dilapidated buildings which constitute a hazard to public health and safety and which may be compelled to be removed, with due process, from buildings, grounds, lots, contiguous sidewalks, streets and alleys within the unincorporated areas of the County. The Ordinance outlines the due process for formal notification, removal by the County and recovery of costs for removal, appeal and lien processes for property owners with hazardous conditions on their property.

Chair Basnar opened the meeting to the public.

Mike Jackson, read written comments (attached).

Helene Jackson, read written comments (attached).

Chair Basnar closed the meeting to the public.

Mr. Corley stated that staff recommends forwarding a recommendation of approval to the Board of Supervisors with the noted provisions.

**Motion:** Motion to forward a recommendation of approval of the Hazard Abatement Ordinance with the recommended provisions to the Board of Supervisors for Approval, **Action:** Approve, **Moved by** Jim Lynch, **Seconded by** Pat Edie.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.

### **PLANNING DIRECTOR'S REPORT**

1. There have been no recent actions by the Board of Supervisors.
2. Next month there will be no dockets; therefore there is no meeting in January.
3. Mr. Vlahovich stated they are interviewing some strong applicants for Planning Director.
4. Staff has been working with the Business Friendly Task Force on future update on the Zoning Regulations.

### **CALL TO COMMISSIONERS**

Mr. Basnar stated he has resigned from the Commission. Therefore this will be his last meeting.

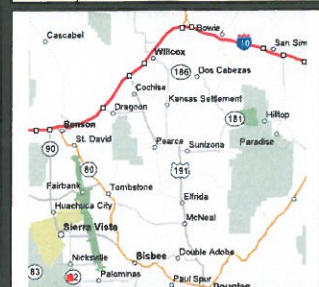
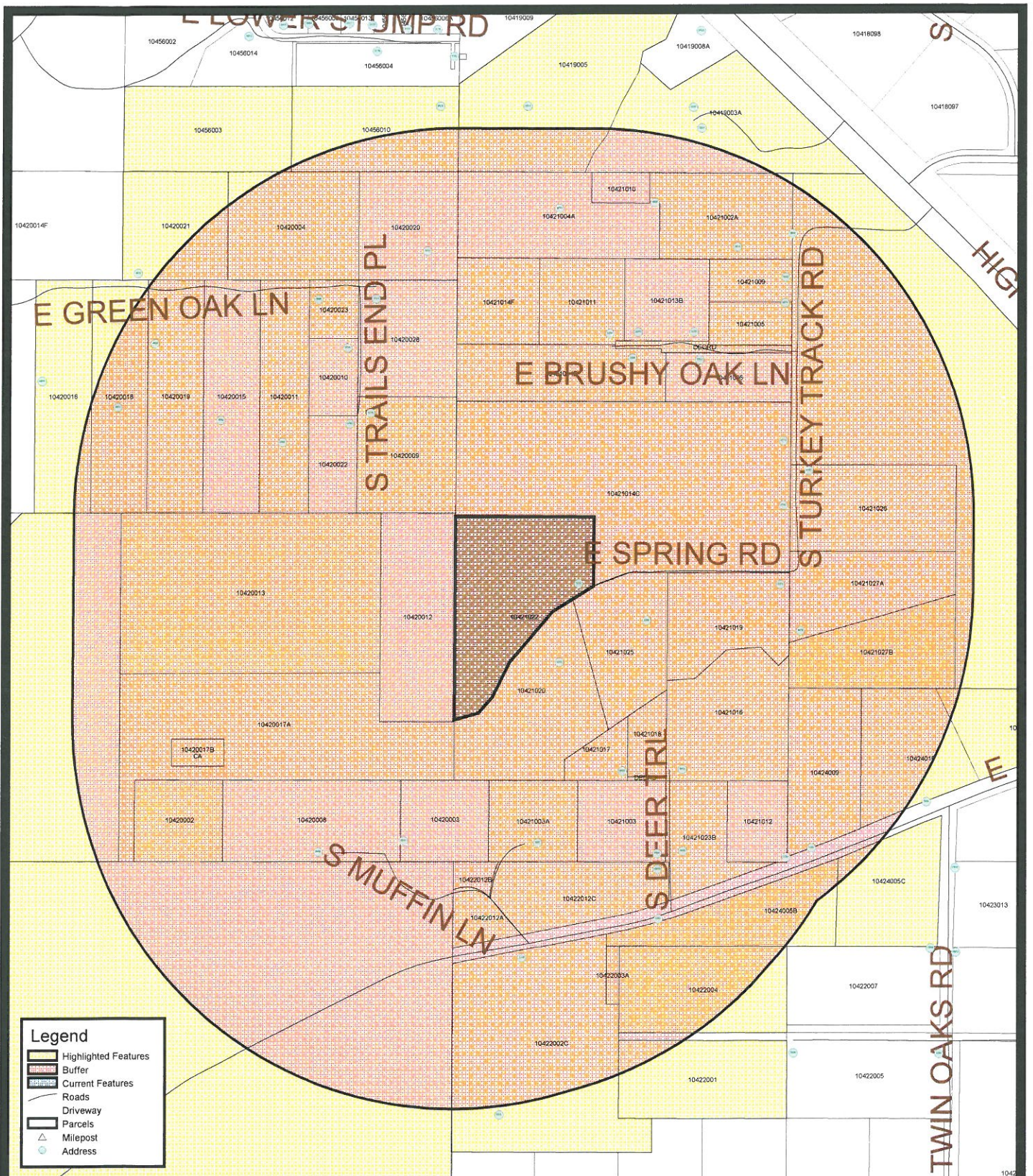
### **ADJOURNMENT**

**Motion:** Motion to adjourn, **Action:** Adjourn, **Moved by** Duane Brofer, **Seconded by** Jim Martzke.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Gary Brauchla, Ron Bemis, Jim Lynch.





SU-11-01  
Ballator  
104-21-022  
1500' buffer

This map is a product of the  
Cochise County GIS



0' 1" = 533'





## **COMMUNITY DEVELOPMENT DEPARTMENT**

### **Planning, Zoning and Building Safety**

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

*Carlos De La Torre, P.E., Director*

### **MEMORANDUM**

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Keith Dennis, Senior Planner  
For: James E. Vlahovich, Planning Director  
**SUBJECT:** Docket SU-11-01 (Ballator)  
**DATE:** February 1, 2011 for the February 9, 2011 Meeting

### **REQUEST FOR A SPECIAL USE**

**Docket SU-11-01 (Ballator):** The Applicant seeks a Special Use authorization from the Planning and Zoning Commission for a Cultural, Nature or Historic Exhibit, per Section 607.31 of the Zoning Regulations. A Bed and Breakfast exists on the property (Ash Canyon B&B). The Special Use would legitimize the use of the property by bird watchers, some of whom are B&B guests, as well as to members of the public not staying at the B&B. The Applicant proposes no new construction as part of the Application.

The subject parcel (Parcel No. 104-21-022) is located 5255 E. Spring Road in Hereford, AZ. The Applicant is Mary Jo Ballator of the same address.

### **I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES**

**Size:** 6.54 Acres  
**Zoning:** RU-4 (Rural, 1 Dwelling per 4 Acres)  
**Growth Area:** Category D (Rural Growth Area)  
**Plan Designation:** Rural-Density Residential  
**Area Plan:** Sierra Vista Sub-Watershed, Southern San Pedro Valley Area Plan  
**Existing Uses:** Single Family Residence, Bed and Breakfast Inn, Bird-Watching Exhibit  
**Proposed Uses:** Unchanged

### **Surrounding Zoning**

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Rural Residential
South	RU-4	Rural Residential
East	RU-4	Rural Residential
West	RU-4	Rural Residential

## **II. PARCEL HISTORY**

1994 – Permit issued for a single-family residence and accessory structures;  
2002 – Violation issued for Bed and Breakfast without a permit;  
2003 – Permit issued to legitimize B&B.

## **III. SPECIAL USE REQUEST AND BACKGROUND**

Mary Jo Ballator has hosted bird watchers on her property since 1996. In those early days, birding on the Ballator property was an “on-your-own” affair. One or two weeks during the spring, she would open her gates and allow birders to observe wildlife on the property.

In the summer of 2002, the Applicant began to take the “birding on-your-own” activity in a more formal direction, with longer periods during which the site was open to birders, and by accepting donations. This was also the year that the Ash Canyon Bed & Breakfast opened. The following year Ms. Ballator obtained the required B&B permit.

In the summer of 2009, due to a lack of consistency with regard to donations, the Applicant began charging a \$5.00 admission fee to birders seeking to use the yard for bird watching. When she was asked whether the operation was permitted by the County, Ms. Ballator contacted the Community Development Department. She was advised by staff that the use is considered a “Cultural, Nature and/or Historic Exhibit,” which is allowed in a Rural Zoning District by Special Use (per Section 607.31 of the Zoning Regulations). The Applicant volunteered to undertake the public process necessary to legitimize the use, and now requests Special Use authorization from the Commission.



*Aerial view of the project site and adjacent properties. Until recently, birder parking was allowed along the cleared area South of Spring Road (circled).*



**IV. COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)**

Section 1716.02 of the Zoning Regulations provides a list of 10 factors with which to evaluate Special Use applications. Staff uses these factors to help determine whether to recommend approval for a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Eight of the 10 criteria apply to this request. The project complies with four of the eight applicable factors as submitted; with the recommended Conditions of Approval and requested modifications to site development standards, the project would comply with each of the eight criteria.



*Two views of the birding exhibit areas.*



**A. Compliance with Duly Adopted Plans: Complies (See Condition #3)**

This Factor reflects the extent to which a proposed project is consistent with policies in applicable “master development plans, transportation plans or other land use plans if any have been adopted for the area encompassing the Special Use.” The project site is within the Sierra Vista Sub-Watershed Plan area, as well as the. The Applicant does not propose any new construction, but if this changes in the future, Condition #3 would require compliance with the Sub-Watershed Plan for new water fixtures.

The project site is also within the boundaries of the Southern San Pedro Valley Area Plan. The Plan policies specifically reference nature exhibits as an encouraged land use type. The layout of the site, the architectural style and color scheme of the existing structures on the site also comply with the Area Plan design standards.

**B. Compliance with the Zoning District Purpose Statement: Complies**

The project would comply with Section 601.05 of the Zoning Regulations, which supports “recreational support services that are compatible with rural living.”

**C. Development Along Major Streets: Not Applicable**

The project site is approximately one-half mile West of the Turkey Track Road / Highway 92 intersection. The project would not result in the creation of any new points of access to any street.

**D. Traffic Circulation Factors: Complies**

The Comprehensive Plan Transportation Policies (Section 102.B.3) suggest that non-residential uses should have access to arterial and/or collector roads. The project would not comply with this policy. However, this circumstance could be mitigated by maintaining the road network between the project site and Highway 92. A private maintenance agreement requiring the Applicant to provide basic maintenance along this route has been in place since 2003, when the Bed & Breakfast was permitted. The agreement covers a distance of approximately 900 feet, from the project site driveway to the intersection of Spring Road and Turkey Track Road, where County maintenance begins. A portion of the roadway along the path to Turkey Track is improved with a chip-seal surface.

**E. Adequate Services and Infrastructure: Complies (Subject to Conditions #2 and #4)**

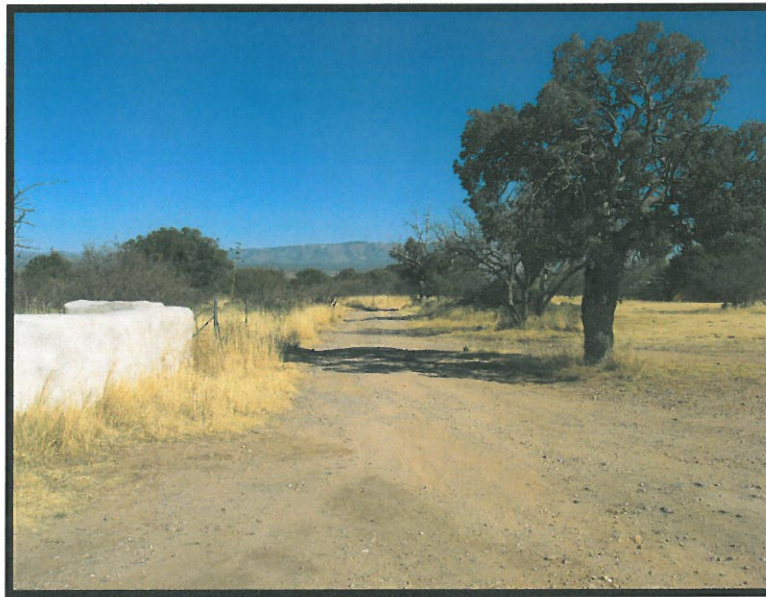
The existing private maintenance agreement ensures a basic level of road maintenance between the project site and the nearest County-maintained road.

The Applicant intends to increase the capacity of the existing parking area, provide an ADA compliant parking space with a path into the exhibit area, and provide a decomposed granite surface for the parking and driveway area.

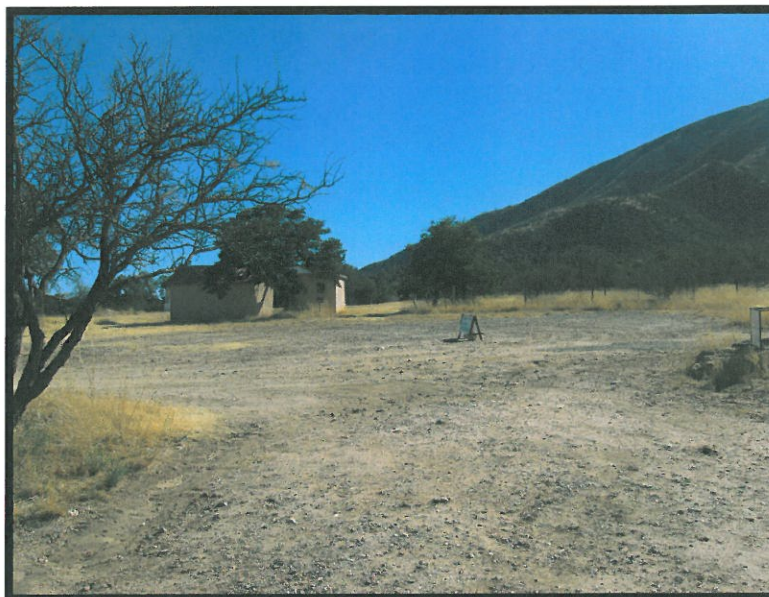
The location of the existing and proposed parking spaces, and details regarding ADA-compliance with regard to the parking area and paths through the exhibit area, would benefit from additional consideration and consultation. For instance, there will be head-in parking spaces



along the West side of the property adjacent to the existing parking area, and possibly angled or parallel parking spaces along the East side of the parking area. The internal circulation pattern should be crafted to minimize traffic conflicts that may arise from divergent parking space types and approaches; the pedestrian paths on the site should be made to fulfill the “reasonable accommodation” intent of the Americans with Disabilities Act. Staff therefore recommends, as Condition #2, that prior to permit issuance, the Applicant work with the County Transportation Planner to develop a vehicular and pedestrian circulation plan which would address these concerns. This Condition would provide a site-specific measure of flexibility for the creation of such a plan.



*Above: Looking East along Spring Road from the Ash Canyon B&B entrance. Below: Southward view from the parking area. The sign in the background directs traffic to park on the project site, and not on the adjacent property.*



At the present time, the project site does not provide restroom facilities for customers. The Applicant has informed customers of this with signage on the property, and on the Ash Canyon B&B website. Section 1716.03.E of the Zoning Regulations allows the Department to recommend reasonable requirements for facilities to address public health and adequate infrastructure for Special Uses. Condition #4 would require the Applicant to provide sanitary facilities for customers; prior to permit issuance, the site plan would have to be revised to show the location of the restroom facilities and the path to those facilities.

The Applicant has expressed that providing an on-site restroom would constitute a financial hardship. Condition #4 would allow portable restroom units to be used in lieu of permanent facilities for a period of one year, beginning at the date of permit issuance.

**F. Significant Site Development Standards: Complies (Subject to Condition #1 – See Requested Modifications to Site Development Standards)**

The site plan, as submitted, contains a number of minor deficiencies. Condition #1 would require a new site plan, which meets the applicable regulations, prior to issuance of a permit.

The Applicant has asked for a waiver of the requirement that driveways to parking areas be clearly defined with entrance and exit lanes (Section 1804.06.F). The driveway entrance runs along the North side of Spring Road for a distance of approximately 45 feet, providing adequate space for ingress and egress. This request is intended to provide greater flexibility with regard to the circulation plan which would be required by Condition #2.

The Applicant also requests a Modification to the standard which requires, per Section 1804.07.D, that the parking and driveway areas be surfaced with a two-inch deep gravel surface treatment. The Applicant instead proposes to apply a treatment of decomposed granite which would meet the intent of the standard, but which would not necessarily reach a depth of two inches. Attachment E provides the Applicant's modification requests, along with the rationale for each.

**G. Public Input: Complies**

The Applicant completed the required Citizen Review Report prior to submitting the Application; the Department published the required legal advertizing, posted the site and notified property owners by mail.

The Applicant's Citizen Review elicited a mixture of support, sometimes qualified support, as well as some opposition. Some neighbors, for example, sought to condition their support upon suggested improvements to Turkey Track Road or to an improved parking plan for the project site. Attached to this Memo are responses from the public, as well as the Applicant's responses to some of the objections from neighbors. One of the more common objections to the project concerns the parking plan. Some neighbors expressed concern over the fact that until recently, the Applicant allowed visitors to park on the property across Spring Road to the South. This practice has since been discontinued, and the Applicant has notified neighbors as well as customers that parking is prohibited on the adjacent property.

Section 1716.02.G of the Zoning Regulations states that, if neighbors raise concerns about a project, "it is fair to ask if the Applicant has made a reasonable effort to address these concerns

through the Citizen Review process.” The Applicant’s attempts to mitigate neighbors’ objections demonstrate compliance with this Special Use factor.

The Citizen Review effort also resulted in 17 letters in support of the project, from as near as Hereford, to Tucson, as well as from Washington, Iowa and Minnesota, Louisiana, and California. Cochise County is renowned for its nature-based tourism opportunities, and is particularly well-known as a birdwatching destination. These letters in support of the project serve to illustrate that fact. Some of these letters of support come from local nature or birding-specific nature tours in the Hereford and Tucson areas.

#### **H. Hazardous Materials: Not Applicable**

#### **I. Off-site Impacts: Complies**

The most common off-site impact related to the birding exhibit would be traffic. During the height of the birding season (Spring through Autumn), the Applicant estimates a maximum of 12 vehicles per day. The Questionnaire states that “on three occasions only, a 50-passenger bus from Country-Wide Tours has brought groups of birders to the property.” Ms. Ballator indicates that she intends to prohibit bus traffic to the site in the future, as a means of addressing neighbors’ traffic concerns.

The attached Transportation Planner Memo addresses traffic concerns, comparing the Applicant’s traffic estimates with the International Traffic Engineer’s Manual trip generation estimates (See Attachment D). The trip generation analysis provided in the Memo indicates that the Applicant’s estimates and the ITE estimates are similar, and that “trip generation for this proposed use is occasionally expected to be slightly above the rates for any single family residential unit in this type of area.”

#### **J. Water Conservation: Complies (Subject to Conditions #3 and #4)**

Although the project is within the Sierra Vista Sub-Watershed and is therefore subject to the policies in the Sub-Watershed Plan, the Applicant proposes no new construction. If the Commission applies Condition #4 to the Special Use, permanent sanitary facilities would eventually be required on-site. When and if that were to occur, Condition #3 would require compliance with the policies provided in the Sierra Vista Sub-Watershed Plan.

#### **V. PUBLIC COMMENT**

Staff mailed notices to property owners within 1,500 feet of the subject property, posted the property as required, and published a legal notice on January 20, 2011. Within the 1,500-foot notification buffer, staff has received six letters from neighboring property owners or their representatives opposing the request, and three in support. Support and opposition in these letters is sometimes difficult to determine. Some neighbors have expressed unqualified support, while others have expressed “conditional” support. The same is true for some letters nominally opposing the project. Other letters do not seem to fall into either support or opposition. Finally, 11 letters of support for the project have also been received from tourists and neighbors outside the buffer area. Correspondence from the public in response to the Citizen Review process, and from staff mailings, are attached to this Memo (Attachments F and G).



## **VI. SUMMARY AND CONCLUSION**

### **Factor in Favor of Allowing the Special Use**

1. With the recommended conditions, the project would comply with each of the eight applicable Special Use evaluation factors.
2. The Applicant has demonstrated a willingness to work with neighbors to address their concerns, by taking measures such as applying parking and proposing large vehicle access restrictions (buses).
3. The Applicant has in place a Private Maintenance Agreement requiring basic maintenance along Spring Road to the Turkey Track Road intersection.
4. Three neighbors have expressed support for the project from within the 1,500-foot notification area.
5. The operation has also received 17 letters of support from Hereford and Tucson residents and nature tour operations, as well as bird enthusiasts from other states. These letters indicate the importance of birding to the local tourism economy, as well as broad support for this operation in particular.

### **Factor Against Approval**

1. The Department received opposing correspondence from six neighboring property owners. The most common concerns expressed by these neighbors were the condition of Turkey Track Road, and the parking plan for the birding site.
2. Although passenger vehicles make up most of the birding-related traffic, nature tourism services have been known to bring Econoline-class vans to the site. Larger passenger buses and RVs have also visited the site, along the narrow Spring Road travelway. It is likely that there will be occasional visits from larger vehicles to the site, and that it would be difficult if not impossible to completely restrict such traffic to the property.
3. The Applicant does not provide dedicated restroom facilities on the site. Without Condition #4, adequate sanitary facilities would not be provided on the site.

## **VII. RECOMMENDATIONS**

Based on the factors in favor of approval, staff recommends **conditional approval** of the Special Use request, subject to the following conditions:

1. Within thirty (30) days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall submit and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. The building/use permit shall include a site plan in conformance with all applicable site development standards (except as modified) and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire, and appropriate fees. A permit must be issued within 18 months of the Special Use

approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant.

2. Prior to permit issuance, the Applicant shall work with the County Transportation Planner to develop a vehicular and pedestrian circulation plan that promotes orderly and safe vehicular and pedestrian traffic on site, and which satisfies ADA accessibility requirements.
3. For any future construction involving water utilities, the Applicant shall ensure that new water fixtures comply with the policies of the Sierra Vista Sub-Watershed Water Conservation Plan.
4. ADA compliant sanitary facilities shall be required for this project. Prior to permit issuance, the Applicant shall revise the site plan to provide such facilities. The Applicant may utilize portable facilities to meet this requirement for up to one year, beginning at the date of permit issuance; within a year of the initial permit issuance, the Applicant shall submit a non-residential permit to construct site-built, ADA-compliant sanitary facilities.
5. It is the Applicant's responsibility to obtain any additional permits, or meet any additional conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations.
6. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

Sample Motion: *"Mr. Chairman, I recommend approval of Docket SU-11-01, with the conditions of approval as recommended by Staff, and with the modifications to site development standards as requested by the Applicant; with the factors in favor of approval constituting findings of fact."*

#### **VIII. REQUESTED MODIFICATIONS TO SITE DEVELOPMENT STANDARDS**

The Applicant has requested the following waiver to site development standards:

1. That the requirement, per Section 1804.06.F, that driveways to a parking area be limited to defined entry and exit driveways, be waived.
2. That the requirement, per Section 1807.04.D, that the driveway and parking areas be treated with a 2-inch deep gravel surface, be modified to allow less than 2 inches.

#### **IX. ATTACHMENTS**

- A. Special Use Application
- B. Location Map
- C. Site Plan
- D. Transportation Planner's Comments
- E. Requested Modifications to Site Development Standards
- F. Citizen Review
- G. Public Comment
- H. Support and Protest Map



## **COMMUNITY DEVELOPMENT DEPARTMENT**

Planning, Zoning & Building Safety  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

### **COCHISE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE (TO BE PRINTED IN INK OR TYPED)**

TAX PARCEL NUMBER: 104-21-022

APPLICANT: Mary Jo Ballator

MAILING ADDRESS: 5255 E. Spring Road Hereford, AZ 85615

CONTACT TELEPHONE NUMBER: 520-378-0773

PROPERTY OWNER (IF OTHER THAN APPLICANT): Same as above

ADDRESS: \_\_\_\_\_

DATE SUBMITTED: 23 December 2010

Special Use Permit Public Hearing Fee (if applicable)

Building/Use Permit Fee

Total paid

*Check # 1199*

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ 300.00

*P2*

*Dec 23, 2010*  
*(4)*

#### **PART ONE - REQUIRED SUBMITTALS**

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (9) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. (In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.)
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Citizen Review Report, if special use.

*A*



6. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)

7. Hazardous or Polluting Materials Questionnaire, if applicable.

**OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT**

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site Improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
7. Material Safety Data Sheets
8. Extremely Hazardous Materials Tier Two Reports
9. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

**PART TWO - QUESTIONNAIRE**

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid confusion once the permit is issued.

**SECTION A - General Description** (Use separate sheets as needed)

1. What is the existing use of the property? Residential; one unit B&B
2. What is the proposed use or improvement? Nature exhibit (bird feeding area)  
per Zoning Regulation 607.31: Cultural, historic and nature exhibits.
3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? Birders will come to view birds coming to the feeders in my yard. Once people are in my yard, they are seated, having no impact on neighboring properties. There will be increased traffic on the road leading to the property, which may impact the neighboring properties with dust and possible delays, although the only section of road that is single lane is accessed by a total of four residents, one of which is me.

4. Describe all intermediate and final products/services that will be produced/offered/sold.

The sole service offered is the ability to view birds in the immediate area of my existing home.

5. What materials will be used to construct the building(s)? (Note, if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal)

No buildings are to be constructed or used for this activity.

6. Will the project be constructed/completed within one year or phased? One Year \_\_\_\_\_  
Phased \_\_\_\_\_ if phased, describe the phases and depict on the site plan.

No construction will take place.

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: 7/wk Hours (from 6 AM to 6 PM)

B. Number of employees: Initially: 1 Future: 1 (my self- no other employees)  
Number per shift Seasonal changes 0

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.  
0-12 per day.

(2) Total trucks (e.g., by type, number of wheels, or weight)  
0 On three occasions only, a 50-passenger bus from World-Country-wide Tours has brought groups of birders to the property

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?  
Ingress is from SR 92 along Turkey Track Road to its end, then west on Spring Road to the property. Regress is the reverse.

(4) If more than one direction, estimate the percentage that travel in each direction  
There is no through way, so every car that comes in must leave using the same route.

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest?  
Traffic is heaviest in Spring and Summer, mostly in mornings and again in late afternoons. It is governed largely by times when hummingbirds are most actively feeding.



D. Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

Estimated total gallons of water used: per day 0 per year 0  
No water is used for this project above what I use for my residence

E. Will you use a septic system? Yes X? No     If yes, is the septic tank system existing? Yes X No    

Show the septic tank, leach field and 100% expansion area on the site plan.

I do not offer toilet facilities for day birders.

F. Does your parcel have permanent legal access\*? Yes X No    

If no, what steps are you taking to obtain such access?

\*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet.

Does your parcel have access from a (check one): X private road or easement\*\*

    County-maintained road

    State Highway

\*\*If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.

Attached     NA    

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	<u>Liberty Water (Bella Vista)</u>	<u>EXISTING</u>
Sewer/Septic	<u>Septic tank</u>	
Electricity	<u>SSVEC</u>	
Natural Gas	<u>NONE</u>	
Telephone	<u>Qwest</u>	
Fire Protection	<u>Palomina's Volunteer Fire Dept.</u>	

## SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

Birders will enter the yard and be seated at the bird feeders in the yard.

2. Will outdoor storage of equipment, materials or products be needed? Yes \_\_\_ No ☒ If yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. \_\_\_\_\_
3. Will any noise be produced that can be heard on neighboring properties? Yes ☒ No \_\_\_ if yes; describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? Birders are generally quiet, so they can hear the birds as well as see them. The only noise that could possibly be heard from neighboring properties is the opening and closing of car doors, the noise from cars ingressing & regressing, and conversation of birders in normal conversational tones.
4. Will any vibrations be produced that can be felt on neighboring properties? Yes \_\_\_ No ☒ if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? \_\_\_\_\_
5. Will odors be created? Yes \_\_\_ No ☒ If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? \_\_\_\_\_
6. Will any activities attract pests, such as flies? Yes \_\_\_ No ☒ If yes, what measures will be taken to prevent a nuisance on neighboring properties? \_\_\_\_\_
7. Will outdoor lighting be used? Yes \_\_\_ No ☒ If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.
8. Do signs presently exist on the property? Yes ☒ No \_\_\_ If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.
- A. Free standing B. wall C. \_\_\_\_\_ D. \_\_\_\_\_
- part of the B&B
9. Will any new signs be erected on site? Yes \_\_\_ No ☒ If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?

Yes \_\_\_ No X

If yes, will storm water be directed into the public right-of-way? Yes \_\_\_ No X

Will washes be improved with culverts, bank protection, crossings or other means?

Yes \_\_\_ No X

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

crushed aggregate

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?

Yes \_\_\_ No X If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

### **SECTION C - Water Conservation and Land Clearing**

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Community Development, Planning, Zoning & Building Safety Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

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2. How many acres will be cleared? no land will be cleared.

If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.) \_\_\_\_\_

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#### **SECTION D - Hazardous or Polluting Materials**

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No X Yes \_\_\_\_\_ If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

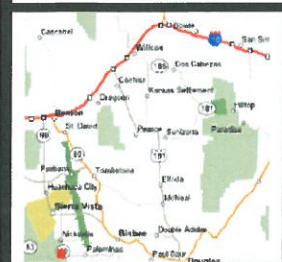
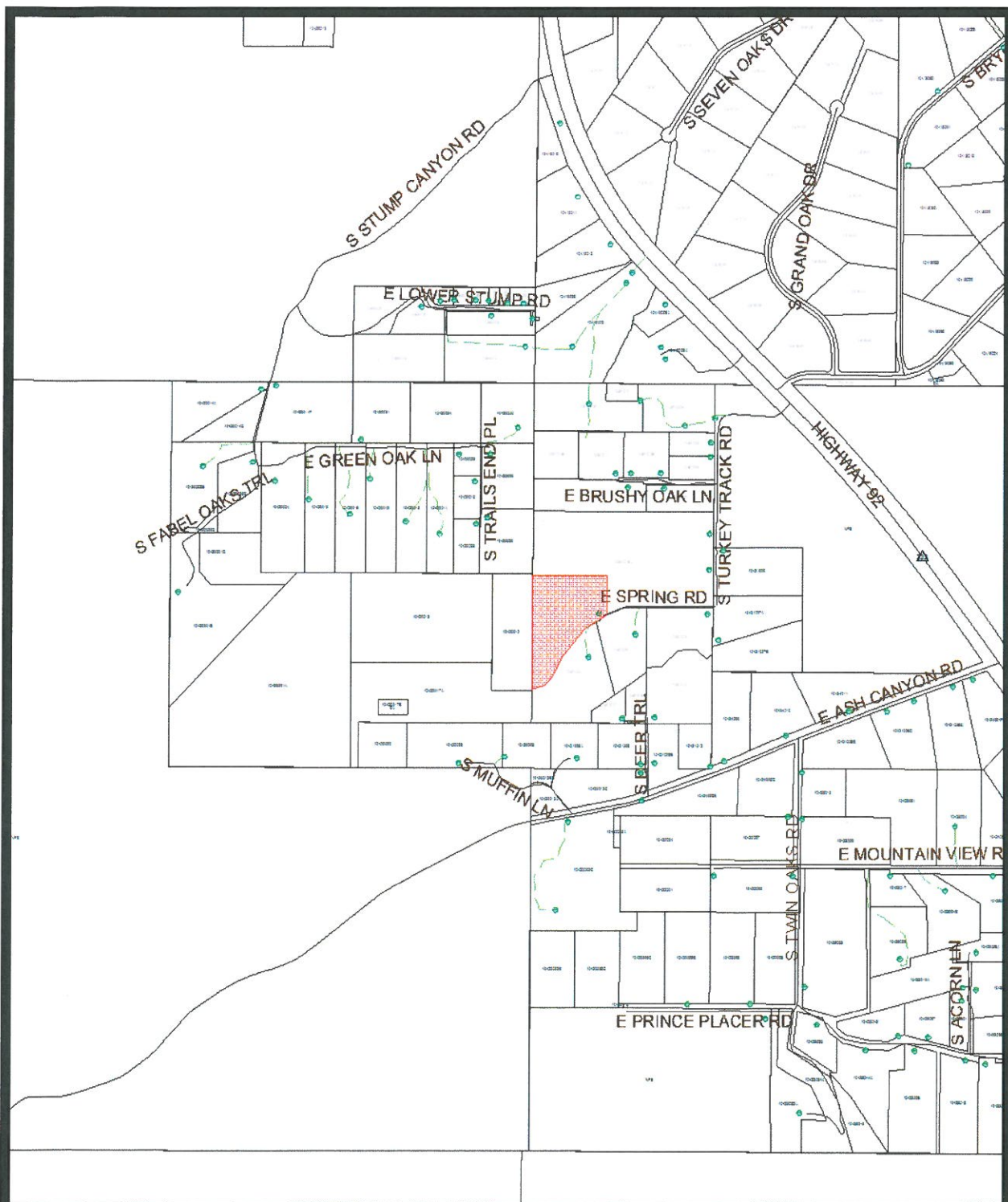
**Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333.)**

#### **SECTION E - Applicant's Statement**

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature Mary Jo Bellator

Date signed 21 December 2010



Docket SU-11-01  
(Ballator)  
Location Map

This map is a product of the  
Cochise County GIS



0' 1" = 672'

B

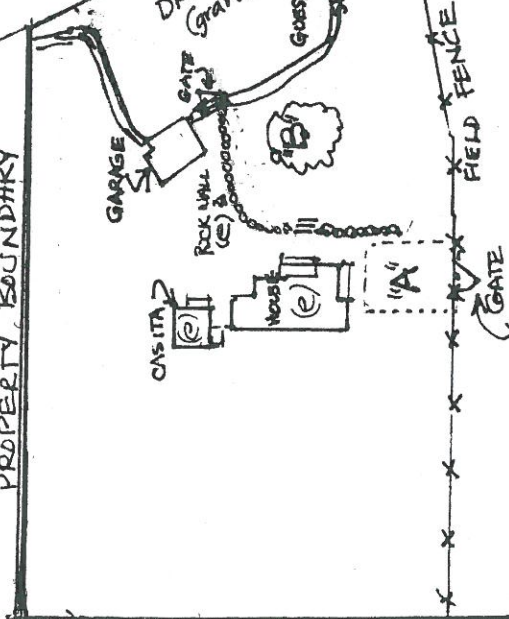
REGUIERO PROPERTY

PETERSON PROPERTY

DOUGLAS PROPERTY



PROPERTY BOUNDARY



BALLATOR PROPERTY SITE PLAN

5255 E. SPRING ROAD

HEREFORD AZ 86615

PARCEL # 104-21-022

COCHISE COUNTY, AZ.

NO CONSTRUCTION IS PROPOSED.

NO CLEARING IS PROPOSED.

NO GRADINGS IS PROPOSED OTHER THAN SMOOTHING PROPOSED PARKING SPACES.

BIRD FEEDING ZONES

ZONE "A"

AREA 35' X 35' WHERE FEEDERS ARE HUNG IN TREES ZONE A IS ABOUT 6' AWAY FROM THE HOUSE

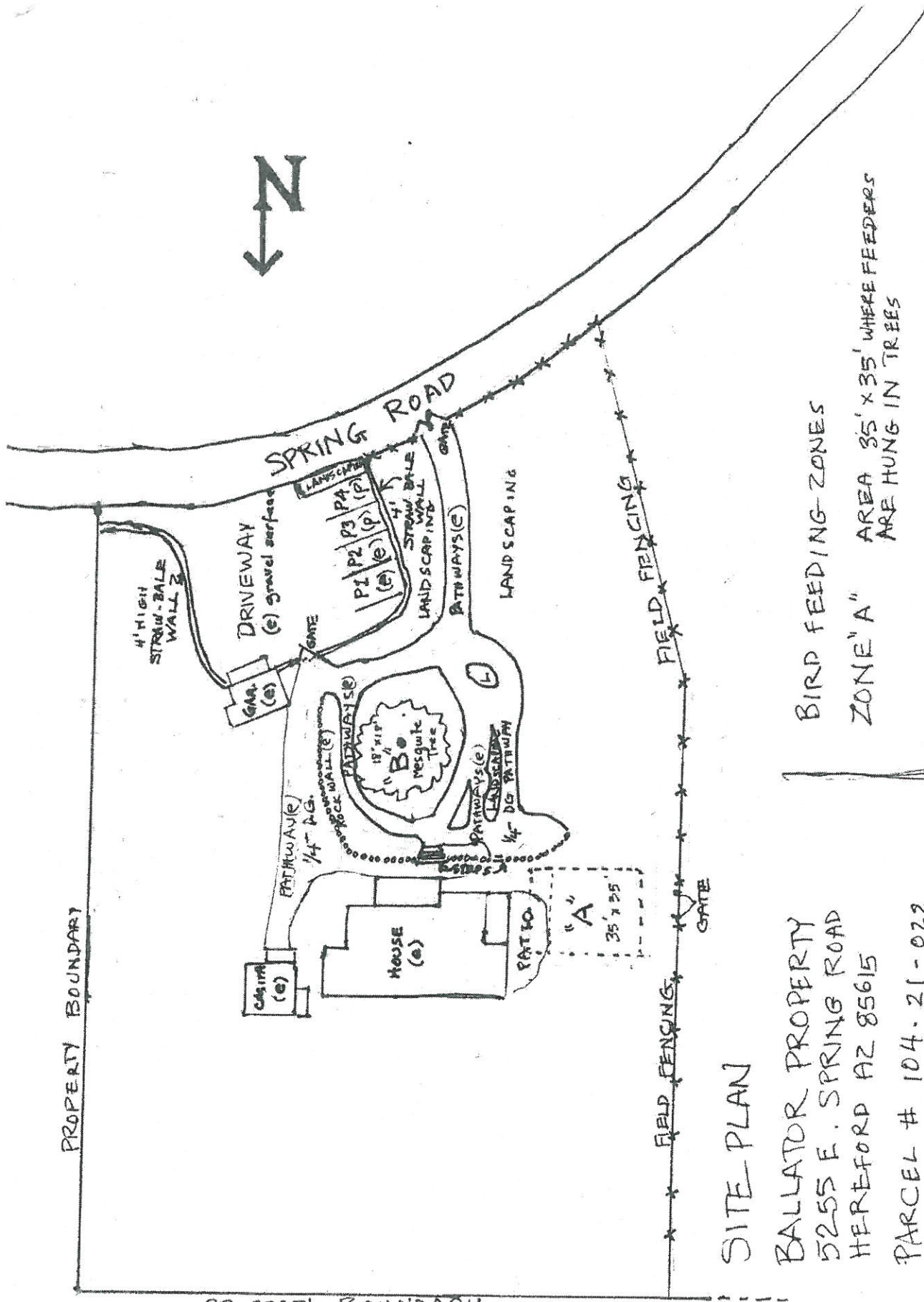
ZONE "B"

MESQUITE TREE 18' IN DIAMETER WHERE 9 FEEDERS ARE HUNG. ZONE B IS ABOUT 35' AWAY FROM THE HOUSE.



PROPERTY BOUNDARY

PROPERTY BOUNDARY



## SITE PLAN

BALLATOR PROPERTY  
5255 E. SPRING ROAD  
HEREFORD AZ 85615

PARCEL # 104-21-022  
COCHISE COUNTY, AZ

ALL DETAIL ABOVE SHOWS EXISTING STRUCTURES. ALL SETBACKS ARE OBSERVED. THE ONLY PROPOSED IS THE CREATION OF TWO...

BIRD FEEDING ZONES

ZONE "A"

AREA 35' x 35' WHERE FEEDERS ARE HUNG IN TREES

ZONE "B"

MESQUITE TREE 18' IN DIAMETER WHERE 9 FEEDERS ARE HUNG IN BRANCHES. ZONE "B" IS ABOUT 35' FROM HOUSE



## **COMMUNITY DEVELOPMENT DEPARTMENT**

Planning, Zoning and Building Safety  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

*James E. Vlahovich Deputy County Administrator  
Interim Planning Director*

### **MEMORANDUM**

**TO:** Keith Dennis, Planner II

**FROM:** Karen L. Lamberton, County Transportation Planner

**SUBJECT:** Ash Canyon Birding Site: SU-11-01\Parcel #104-21-022

**DATE:** January 26, 2011

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The applicant currently has a single guest lodging as a permitted Bed and Breakfast unit located in Ash Canyon. The canyons of the Huachuca Mountains are well known as birding hotspots and the applicant seeks to legitimize the use of her property as a birdwatcher destination. For many years the applicant offered birdwatchers the opportunity to view birds on her property with a recommended and voluntary donation but costs to maintain feeders to guarantee the birding experience that many birdwatchers have come to expect led to a decision by the applicant to charge a fee. This use was determined to be similar to a cultural, nature or historic exhibit in the County's Zoning regulations.

The site takes access from state Highway 92 to Turkey Track Rd., a county-maintained primitive roadway, then to Spring Rd, a private road that is partially chip-sealed along one section and then in a primitive natural state to the applicants property. The private lane has recorded easements with a total width of 15 feet (7.5 feet on each parcel) providing access to six property owners/eight parcels. At present a gate is located on Spring Rd. just west of the applicants property entrance; however, the private easement continues the full length of the applicants parcel and the adjoining property line. The condition of the private road is approximately the same as the condition of the county-maintained primitive road section of Turkey Track Rd.

The previously approved use (detached 325 square foot Bed and Breakfast) included several conditions that would meet requirements for this expanded use as a bird-watching destination including: the maintenance of Spring Rd. per a Private Maintenance Agreement; no obstruction of the Spring Rd. easement; parking area and driveways improved and maintained with a 2 inch thick gravel surface or better surface; screening of refuse collection areas.

There is no equivalent match for this type of use in the ITE Manual, 8<sup>th</sup> edition. Similar uses, such as campgrounds, national monuments or recreational parks are share similar characteristics of seasonal shifts, low trip generation rates and typically off-peak with higher weekends visitors. A typical single family residential unit has an estimated 9.57 trips per day with a range from 4 to 21

D



trips per day. A single bed and breakfast detached unit has an estimated 3.16 trips per day. The applicant provides a range of vehicles that might visit in any given day from zero to twelve. Typically, the applicant may have 6 additional vehicles per day during the height of the hummingbird migration. Based on that mid-range this site may see about 24 trips per day during the busy time of the birding season and less than 10 on the off-season. Trip generation for this proposed use is occasionally expected to be slightly above the rates for any single family residential unit in this type of area.

Currently parking spaces are available but it appears that visitors have been parking along the easement or on an adjacent parcel (apparently with the permission of the property owners per submitted letter to the county; while this permit is under review the applicant has noted on her website that all parking must be on her own property and instructs visitors to not park elsewhere). There appears to be adequate space within the applicant's property to accommodate a typical high-season day with some reconfiguration of the parking lot area. Additional clarity in where to park, especially for larger sized vehicles, would be helpful to avoid encroachment on neighboring properties. Pathways are currently fairly well defined; however, clearer definition between the three uses (personal home, private B&B and birding viewing locations) could help visitors navigate to appropriate public areas of the property. Additional directional signs or slightly different placement of existing signs may also help to improve the movement of vehicles and people throughout the site.

### **Recommendation**

Parking orientation, traffic circulation, accommodation of intermittent larger vehicles, pedestrian circulation and way-finding are issues that are need of resolution for this site to more effectively function as destination site for the public. These issues are not insurmountable or reach to the level of requiring significant mitigation and explicit conditions; however, it is recommended that the applicant work directly with my office to more fully develop a plan that will address both vehicle and pedestrian issues. Minimum standards for ADA should be addressed both within the parking area and along the pathways.

A Private Maintenance Agreement for Spring Rd. by the applicant is on file with the County dated Nov. 12, 2003 and meets the requirements of Zoning Regulations section 1807.02(A).

cc: Docket SU-11-01

D

**Dennis, Keith**

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**From:** Dennis, Keith  
**Sent:** Tuesday, February 01, 2011 12:21 PM  
**To:** Dennis, Keith  
**Subject:** FW: SU-11-01 - Site Development Standard Deficiencies and Modifications

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**From:** Mary Jo Ballator [mailto:2mjb@mindspring.com]  
**Sent:** Thursday, January 27, 2011 10:41 PM  
**To:** Dennis, Keith  
**Subject:** Re: SU-11-01 - Site Development Standard Deficiencies and Modifications

Dear Keith,

Thank you for this additional information.

I would like to request a waiver from the requirement that the driveway entry be "clearly defined". My place is the last place on the right along a private road. My Ash Canyon B&B sign is very legible to people driving up the road and is clearly visible on the right hand side of the road. There is nowhere else to go, as there is a gate to the Douglas property immediately past my sign. This gate bars further access along the road. In my discussion with Karen Lamberton of the County, she felt that the combination of three factors: the curve of the road, placement of the sign, and the strip of landscaping along the road, would serve to give visitors adequate definition and direction into my parking area.

I would also like to request a modification of the requirement to have two inches of gravel on the driveway. The existing surface is dirt with gravel, and no ruts have occurred. When the landscaping work is done by Southwest Desert Images, there will be some grading to the driveway, and there will be a layer of compacted decomposed granite (DG) applied to the entire driveway over the existing surface to provide a neat appearance and a stable, firm, and dust-abating surface which is suitable for wheelchairs to roll across. At a date in the near future, I will be applying a layer of stabilized DG to the paths in the display area.

Thank you for your consideration.

Sincerely,  
Mary Jo Ballator

2/1/2011

E





# Ash Canyon Bed & Breakfast

December 11, 2010

Dear Neighbors,

I am applying to Cochise County for a Special Use Permit (**Zoning Regulation 607.31: Cultural, historic and nature exhibits**) to allow people other than my B&B guests to come into my yard to watch birds. You are being contacted because you own property that is within 1500 feet of my property.

Description of the project: There are two (2) bird feeding areas immediately adjacent to my residence: 1.) Approximately 30' from the south wall of my house is a large mesquite tree with nine hummingbird feeders hung in it. 2.) About 15' from the west wall of the house is an area of about 40' x 30' where multiple bird feeders of various types are hung. There is also a water drip within this area. There are lawn chairs in both areas so that people can sit to watch the birds coming to the feeders. Enclosed is my brochure with a map showing the location of my property. All traffic coming here would turn from Highway 92 onto Turkey Track Road, and continue to my property on Spring Road. They would exit the same way.

As many of you know, I have a one-unit bed & breakfast rental, for which the permit was granted in 2003. In order to supplement the small and very seasonal income from the B&B, I have been allowing birders to come here to watch the birds. I ask that they pay an admission of \$5 per person. If the permit is granted, I have no plans to change the feeding station as it now exists. This letter is just a formality to satisfy the requirements for obtaining the permit.

I invite your comments on this matter. I am requesting that, if possible, you submit your comments to me by Wednesday, December 22, so that I may present the application and any comments that I receive to the county by Friday, December 24<sup>th</sup> so that it may be considered by the Planning & Zoning Commission at their scheduled hearing on Wednesday, February 9, 2011. If you have comments or questions about any aspect of this, you may submit them to me by mail, phone, or e-mail.

If you would like to see the feeding station, please call me to schedule a tour and answer any questions you have.

Thank you.

Sincerely,



Mary Jo Ballator  
5255 E. Spring Road  
Hereford, AZ 85615-9029  
520-378-0773  
[2mjb@mindspring.com](mailto:2mjb@mindspring.com)



**Dennis, Keith**

**From:** Mary Jo Ballator [2mjb@mindspring.com]  
**Sent:** Tuesday, December 28, 2010 9:44 PM  
**To:** Battiste Tony; Battiste Julie; Van Cleve Christie; Melton Charles; Williamson Sheri (w); Tom Wood; Woodley Joe; Loza JoAnn; Jones Mitzi; Behrstock Robert A.; LeMay Karen; Schmidt Karl & Dome Patrick; Pretti Mark; Gerrodette Tricia; Case Margaret; Romea Rick & Sprecher Cindy; Valentine Joe & Helga; Stocku Bill; Mouras Ted; wbunlimited1013@qwestoffice.net  
**Cc:** Dennis, Keith  
**Subject:** Ash Canyon B&B Special Use Permit

Dear Friends,

I recently became aware that I need a Special Use Permit from Cochise County for doing what I've been doing for the past several years -- having birders come to see birds in my yard. Working with Mr. Keith Dennis, a Planner with the county, I have completed the first parts of the application (the Citizen Review process) in which I sent a letter to all property owners within 1500 feet of my boundaries, describing my feeding station, and asking for their responses. Several neighbors have indicated their concerns about such issues as excess dust, increased traffic, adequate parking, and so on. The comments received so far have been turned in to the county, along with the application form and the required fee. There will be a hearing regarding my case at the Planning & Zoning Commission meeting at Melody Lane in Bisbee on Wednesday February 9 at 4:00 pm. After that, the decision whether to grant me the permit will be made, along with any required conditions there might be if the permit is granted. If a permit is not issued, I will not be able to keep the yard open for birders.

I am asking for your help in two ways:

**1.) Writing a letter of support:**

Mr. Dennis tells me that letters of support may be helpful to my case. If you could possibly write a letter of support, it should be done as soon as possible and sent to Mr. Dennis at the address below. It should contain reference to Ash Canyon B&B and my parcel number 104-21-022. Letters from property owners closest to my property will probably receive the most weight, but all will be considered. You might want to mention such topics as the importance of this feeding area to the birding community, the money that eco-tourism brings to the county, or any other topics you think might illustrate the value of keeping my place open to birders.

**2.) Speaking at the hearing:**

If you could possibly attend the hearing to speak in my behalf, the time and location are listed below. When my case comes up at the meeting on February 9, I will speak briefly, after which each person who wants to speak about my project may do so, either pro or con, for up to 4 minutes each. I will get time after that to rebut, if necessary.

**Letters (either e-mail or hard copy) should go to:**

Mr. Keith Dennis  
 1415 Melody Lane  
 Bisbee, AZ 85603  
 Phone: 520-432-9240  
 Email: [kdennis@cochise.az.gov](mailto:kdennis@cochise.az.gov)

**Planning & Zoning Commission Meeting time/location:**

1/31/2011

F

Wednesday, February 9, 4:00 p.m.  
Planning & Zoning Commission Meeting  
1415 Melody Lane  
Board of Supervisor Room, Building G  
Bisbee, AZ 85603

Obtaining a Special Use Permit is crucial to my being able to remain in business. I deeply appreciate all your past support, and I am grateful for any help you are able to give at this time. If you have any questions, please get in touch with me.

Thank you very much.

Sincerely,  
Mary Jo

**Mary Jo Ballator, Host**  
Ash Canyon Bed & Breakfast  
5255 E. Spring Road  
Hereford, AZ 85615  
520-378-0773  
<http://AshCanyonBandB.com>



December 19, 2010

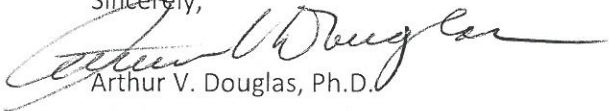
Mr. Keith Dennis  
Cochise County Planning and Zoning Department  
1415 Melody Lane #E  
Bisbee, Arizona 85603-3037

Dear Mr. Dennis:

Attached is my response to Ms. Mary Jo Ballator's letter indicating her plan to apply for a special use permit on her property (parcel 104-21-022). The special use permit she is applying for is 607.31 (Cultural, historic and nature exhibits). I am not sure what her statement implies "This letter is just a formality to satisfy the requirements for obtaining the permit" The brief letter from her really does not address major concerns regarding the proposed permit but a number of these concerns are now brought up in my response letter to her and copied to you. A number of phone calls to your office last week left me with the impression that at this stage of the process the only person I was to raise questions with was Ms. Ballator and not your office. It would seem that a detailed site plan with an impact statement would be required before any permit application could be successfully submitted.

Ms. Ballator has been a very good neighbor as indicated in my letter to her, but my concerns are beyond those of just being good neighbors. Protection of the environment within this residential community is important and it is within the framework of the planning department to make sure residential areas are protected from encroachment and that legal matters regarding private roads and adjacent properties are not adversely affected by potential land use changes.

Sincerely,



Arthur V. Douglas, Ph.D.  
5242 East Spring Road  
Hereford, Arizona 85615

COCHISE COUNTY  
DEC 21 2010  
PLANNING

7

December 19, 2010

Dear Mary Jo,

I submit to you this letter after a long period of reflection on the implications of your proposed application to have your property classified under a Special Use Permit (Zoning Regulation 607.31: Cultural, historic and nature exhibits). If this had been a letter written in support of your bed and breakfast permit I would have been very enthusiastic to do so. Allowing a family to stay in a secluded location in a bed and breakfast setting allows for a valuable experience that one carries with them for a lifetime. At the same time a bed and breakfast setting does very little to upset a residential setting where families have chosen to be secluded on 2-20 acre parcels in the middle of "nature". Our taxes on canyon land parcels reflect the cost of this special setting that we live in.

A permit to allow the public direct access without control of visitor numbers turns the residential setting into a commercial setting which I never anticipated would happen when I bought my property in the early 1990s. Developing your property into a broader public access birding site also diminishes the quiet and secluded nature of your bed and breakfast "casita" which charges \$140 to be in this natural setting. When I took my proposed offer on my land to our family lawyer he indicated that given the zoning and status of the other properties within the area and the private road status granting ingress and regress to residents only that barring a code change the area should remain strictly residential without farther development (utility companies also had road access rights granted for access to equipment). Your proposal now deviates from the original setting of this neighborhood.

It is very understandable that birders to southern Arizona would like multiple sites to view the bird fauna of the region. But the question is should this infringe on a residential neighborhood which has prided itself on its isolated and quiet setting? Allowing large number of birders into the area with associated noise also threatens to disperse more shy birds such as the Elegant Trogon, Montezuma's Quail and a number of rare owls and hawks. From my house I can clearly hear car doors shut, people talk and laugh and cars starting up and taking off. From a nature setting point of view, this detracts from this special land that we have purchased and chosen to live on.

Entrance to both of our houses is along Spring Road which is not maintained by the county and which is a single lane road with ingress and regress right-of-ways. The road is not designed for public use and cars have to wait at either end of the road in order to let the flow of traffic through. During peak birding periods in the spring and late summer this road carries a lot of traffic up to your birding spot, with easily 10-20 cars per day and probably higher during rare bird sightings. Thus your opening up of your yard to public access creates excess traffic with wear-and-tear on the road. Road improvements should not be

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at the expense of the other residents along the road who would end up constituting a small percentage of the road traffic. Given our current dry spell it is also obvious that the traffic induces a dust problem which affects the vegetation and leads to allergy problems (I for one have dust allergies and they have been bad the past month!).

While you proceed with your application process with the County Planning Department I think the following points need to be raised and clarified before any plan can even be considered:

1. Is it legal to open up a private road (Spring Road) to public ingress and regress?
2. Do the two 7.5 foot easements really provide for an acceptable entrance and exit route for both the public and residents, especially relative to large vans and school buses full of birders which can slow or at times stop traffic?
3. Who should bear the brunt of maintaining the road which clearly is marked as not being maintained by the county? The birding visitors can easily increase road traffic by tenfold during peak times (if not higher).
4. What are the liabilities that you have per the public entering private property surrounding your home, including the road itself? Will you carry insurance to cover accidents on nearby property associated with the public wondering onto that property? Or are the nearby neighbors now left with the burden to increase their liability insurance due to a public site being opened up adjacent to their residential property?
5. What is the proposed plan for parking and turn around space? Currently the parking and turn around space is not on your property. What if the Peterson property was sold and the new owners did not allow the use of their land for parking and turning around of public vehicles?
6. As a public area what type of toilet facilities are going to be available? Given that the peak birding season has seen a large number of birding tours visiting your home, individuals in the tour do not have the luxury of getting in their own car and driving 4 miles to the closest public restrooms (i.e. Nicksville gas station and restaurants).
7. Birders like viewing early in the morning and at sunset, but is this compatible with a residential area where 9-5 might be a period that causes the least amount of disturbance.
8. If a special use permit under zoning regulation 607.31 were to be considered, what is the life time for such a permit? Is the permit required to be renewed on a given schedule or is the permit permanent and grandfathered into the property? If the latter is true this enhances the sell ability of the property relative to cash flow but it also potentially reduces the desirability of surrounding property.

As I indicated in the first part of this letter, I would have gladly supported your application for a bed and breakfast had a request been sent to me. The bed and breakfast experience is valuable that is unobtrusive to a residential setting. But when a nearby residence is opened up to the public it detracts

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from the ambiance of the residential setting and it lowers the quality of everyday life for the neighbors. While access to a public source of income is very desirable to you, it has no value to your neighbors and I hope you can understand that. We already have a number of public access sites within the area (Ramsey Canyon, The Coronado National Forest canyon access sites, Coronado Memorial, San Pedro Riparian area etc.).

You have been a good neighbor for almost 20 years. You have been considerate in terms of trying to keep the birders in a confined area and you have tried to stop them from wondering down our private road or onto my property. I really appreciate this respect that you have shown. I have no problem with a bed and breakfast near my house with a few outside birders dropping your house by appointment. But when a site becomes public there are a lot of legal and ethical problems that arise and thus, a residential area should remain residential to protect the rights of everyone.

Respectfully,



Art Douglas  
5242 East Spring Road  
Hereford, Arizona 85615  
Parcel 104-21-020 9

cc. Keith Dennis  
Cochise County Planning and Zoning Department  
1415 Melody Lane #E  
Bisbee, Arizona 85603-3037



**Dennis, Keith**

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**From:** Mary Jo Ballator [2mjb@mindspring.com]  
**Sent:** Monday, January 24, 2011 5:22 PM  
**To:** Dennis, Keith  
**Subject:** Mary Jo's letter to Art Douglas

Hello, Keith,

Here is the letter that I sent to Art, as you and I discussed.

Thanks,  
 Mary Jo  
 \*\*\*\*\*

10 January 2011

Dear Art,

I'd like to revisit the topic of my bird-feeding project with you, as I care very much about your concerns, and would like to work them out to your satisfaction if at all possible.

In your earlier letter, you brought up several valid points about the birding on my property. While I won't know the county's position on the matter of ingress and egress on Spring Road until the hearing on February 9<sup>th</sup>, I would like to address the issues in your letter that I do have some control over: those of dust, parking, and noise.

Just before Christmas, I received a letter from the Peterson Trust letting me know that I was no longer to use the Peterson property for parking. I immediately put up the temporary sign on that side of the road instructing birders to park only on my side, and I've been keeping an eye open for anyone who may need to be asked to move their vehicle. I also notified the birding listserv of this change. Hopefully, the fact that my visitors are no longer parking on that side of the road will make a start toward resolving the problems of dust and noise for you.

If the county should grant me a permit, they will let me know how many parking spaces I will need. I don't want to undertake an expensive project until I have their go-ahead, but I am planning to create two more 9-foot-wide parking spaces right beside the two existing ones between my wall and the road. It may mean removing the mesquite tree immediately adjacent to your gate, or simply eliminating several of the multiple trunks on either side of the tree, so that you would have more space to open your gate, and I would have a bit more parking space without totally removing the tree. In addition, I believe I could create up to three additional parallel parking spaces between where my car is parked and the wall to the east of the car. I can also park my own car in such a way as to have an additional vehicle park on my garage pad. In total, this would mean a dedicated space for the Casita guest and up to seven birder parking spaces, subject to approval by the county. If approved, these spaces would be properly graded, surfaced, and signed, with serious concerns for dust abatement and safety. As you know, most of the year is very quiet in terms of visitors, and it is only during the weeks of spring and fall migration (April-May, and July-August) when there is likely to be more than a car or two here at a time.

The reason I began this process was to try to be proactive, to be in compliance with the law, and to be a good neighbor. I have no plans or desire to increase the birding activity here beyond current levels. As I believe you know, my only interest is to earn a modest living while caring for the land and the biological diversity of this treasured area where we live. If I am granted a permit, I will continue to listen to your concerns and to address them. I certainly want to continue the cordiality that you and I have enjoyed over the more than 18 years we have been neighbors. I enjoy your visits, and know that you enjoy the birds in my yard when you come over.

When you have time, I would like to discuss your ideas on these topics between now and the hearing. I hope you will be in town on February 9<sup>th</sup>, and able to come to Bisbee to speak at the hearing. Your concerns are most important to me, as you are probably the neighbor most affected by my project. It is my hope that these issues could be addressed between us in such a way that you might have no further objections to the granting of a special use permit.

Sincerely,

Mary Jo

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1/31/2011

Mr. Keith Dennis  
Planning Dept.  
Cochise County  
1410 Melody Lane  
Bisbee, AZ 85603

COCHISE COUNTY  
DEC 22 2010  
PLANNING

Date: December 18, 2010

Subject: Mary Jo Ballatore Special Use Permit for Parcel 104-21-022 (Zoning Regulation 607.31: Cultural, historic, and nature exhibits)

Dear Mr. Dennis:

I am writing as a representative of the Peterson Trust which owns the adjacent property at 5306 S. Turkey Track Rd, Parcel 104-21-025. Regarding the Special Use Permit, we respectfully offer our opinions:

- 1) EB Peterson, The Trustee, is revoking the verbal permission which he gave years ago to Ms. Ballatore for parking. We recently found out that as many as 10-20 vehicles per day--and buses--are using the property for parking and turn-around. None of us currently lives on the property full time so we were not aware of the volume of cars and buses using the property. We cannot risk the liability exposure that such use of the Trust property conveys. We have sent a letter to Ms. Ballatore today rescinding the verbal parking permission and if necessary, our intent is to build a fence to prevent unauthorized use of the property. However even with "private property, no trespassing signage", or a fence, there is no guarantee that people won't wander onto the property. If Ms. Ballatore is using this as a birding/viewing area, she must be required to have liability insurance to cover potential injuries in such instances.
- 2) We have no problem at all with Ms. Ballaotre operating a bed and breakfast on her property. We understand the rooms available are limited and there is adequate parking available for that operation on her property. If Ms. Ballatore needs additional parking she has enough acreage to provide it without using the Trust property.
- 3) While we feel that the use of her property as a bed and breakfast has no real impact on our property values, the use of her property as a public access birding and viewing area will have a highly negative impact on the value of our property.
- 4) Our understanding is that the road leading past Wicks to the Trust property, and the Douglas and Ballatore properties, is not a public right of way. If it isn't there would be a serious problem with the buses and cars using it. Which leads to maintenance and dust control: is the county going to assume responsibility for maintaining the road as a public right of way when it is the bus and high volume car traffic causing damage? Or perhaps if Ms. Ballatore is using her property as a birding area and charging people to use it, she should pay for maintenance.
- 5) My wife Jackie and I, along with Diane (Peterson) and Dale Aspengren and Greg and Cathy Peterson have now leased the property from the Trust, giving us responsibility for responding to special use permit or zoning change applications. The above represents the collective opinion of

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the Leasees and EB Peterson, the Trustee, on this issue. I will be happy to circulate the letter to get signatures from all parties if needed.

We appreciate your time and consideration of our opinions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daryl E Peterson".

EB Peterson  
1108 Second St. West, Lemmon SD 57638  
5306 S. Turkey Track Rd, Hereford AZ 85615

Daryl and Jackie Peterson  
170 Flynn Court, Lake Lure NC 28746

Diane (Peterson) and Dale Aspengren,  
2029 NW 20<sup>th</sup> Loop, Albany OR 97321

Greg and Cathy Peterson  
744 W. Via De Arboles, Queen Creek AZ 85242

December 27, 2010

Mr. Keith Dennis  
Cochise County Planning Department  
1410 Melody Lane  
Bisbee, AZ 85603

Dear Mr. Dennis:

As a resident living on Turkey Track Road (Parcel # 104-21-002A 6), I would like to pass on my thoughts regarding Ms. Mary Jo Ballator's application for a Special Use Permit (Zoning Regulation 607.31: Cultural, Historic, and Nature Exhibits) to permit the public to view birds at her residence. I have always believed that a person should be allowed to do as they wish on their own property, but only to the point that it does not affect the neighbors' well being and that it does not violate County Regulations. I also believe that the permit should be obtained before the act is accomplished. I would appreciate some feedback on the following:

- 1) It bothers me when I see a vehicle driving down Turkey Track Road at a high rate of speed, not aware that we residents know to go slowly to avoid hitting one of the deer, or turkeys, or other wildlife, or pedestrians. The vehicles stir up dust that ultimately ends up in my lungs or my house. My husband, Donald Schoen, has tried to maintain Turkey Track Road between county maintenance visits, and he works a little on Spring Road, but with the increased traffic it has become harder to do, and only the Lord knows how much longer he will be able to do what he does. The reason many of us moved out here was because of the tranquility of the area.
- 2) Turkey Track Road, a county-maintained road, was still designed for cars and pickups of the residents, their guests, and the maintenance and utility company vehicles. There was never any intent that it would be used for motorhomes except in the rare occasion that a resident would come in or out. And then, of course, there is Spring Road that is definitely too narrow for motorhomes and tour buses. Is the county planning to take over Spring Road? It is not a public road; it is just at 15-foot easement for the residents.
- 3) We had a large motorhome come onto our property awhile back looking for the "Birdwatching" place. In order for her to not destroy a couple of our trees as she was getting ready to back into them, we had to open a private gate and she drove through the Huachuca Oaks Camp to get out. As I understand it, a tree out here is valued at \$10,000. I am assuming Ms. Ballator's liability insurance will cover it if one of her guests gets lost on our property and knocks down a tree?
- 4) Where will they park? Where will they turn around? Will the parking lot be paved?
- 5) What are the state minimum requirements for restroom facilities for birdwatchers? I am assuming the health department will assure there are adequate facilities before a permit would be denied or issued?

Thank you,

*Donald L. Schoen / Laura F. Schoen*  
Donald and Laura Schoen

9616 S. Turkey Track Road, Hereford, AZ, 85615, 520-378-6376/520-234-4095,  
caseysgma@q.com

COCHISE COUNTY

DEC 30 2010

PLANNING

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December 21, 2010

Ash Canyon Bed & Breakfast  
5255 E. Spring Road  
Hereford, AZ 85615

Dear Mary Jo Ballator,

We are responding to your letter in reference to permit Bird Watching on your property.

As neighbors, we feel that if the Planning and Zoning Department should approve your request to increase traffic on this road, they should also approve our request to at least Chip and Seal Turkey Track Road. As you know our neighbor, Mr. Don Schoen spends so much of his personal time, and with his tractor, trying to keep this road maintained because of the already high traffic it receives.

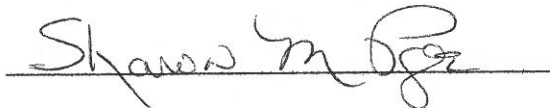

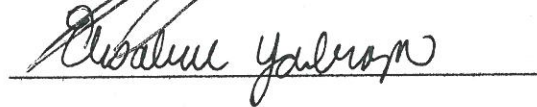
Respectfully Submitted,

Gayland Yarbrough  
5300 E. Brushy Oak

Elisabeth Yarbrough  
5300 E. Brushy Oak

Crystal Redd  
5382 E. Brushy Oak

Sharon M. Page  
5300 E. Brushy Oak





9956 S. Deer Trail  
Hereford, AZ 85615  
Dec. 17, 2010

Mr. Keith Dennis  
Cochise County Planning Department  
1410 Melody Lane  
Bisbee, AZ 85603

I am writing in reference to Ms. Ballator's application for a Special Use Permit (Zoning Regulation 607.31: Cultural, Historic, and Nature Exhibits) to permit the public to view birds at her residence.

I, Larry Kastens, parcels 104-21-017 and 104-21-018, am opposed to the issuance of the special use permit for the following reasons:

1. The tranquil setting among the trees will be disturbed by the numerous vehicles which will stir up dust and disrupt one's paradise.
2. There is not a sufficient amount of parking space to accommodate the constant traffic which has included bus loads of birders.
3. Her present arrangement of having the guests park on the property of a neighbor is unacceptable. (I maintain the property on which the vehicles are parked. Last year a stone was hurled from my mower and broke the driver's side window of one of the vehicles of her guests. Even though the vehicle was parked on the neighbor's property, she absolved herself of responsibility.)
4. There are no public restrooms at the residence and even if they are provided, the septic system was designed for a single family.

Sincerely,

*Larry Kastens*

Larry Kastens

COCHISE COUNTY  
DEC 20 2010  
PLANNING

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**Dennis, Keith**

**From:** Mary Jo Ballator [2mjb@mindspring.com]  
**Sent:** Thursday, January 27, 2011 7:28 AM  
**To:** Dennis, Keith  
**Subject:** Re: Ash Canyon B&B: E-mail to Larry Kastens

Hello, Keith,

You may be interested in reading (and possibly including in the packet) my response to Larry Kastens' concerns, which he included in his letter to the County about my Special Use Permit.

Thanks,  
Mary Jo

Begin forwarded message:

**From:** Mary Jo Ballator <2mjb@mindspring.com>  
**Date:** December 23, 2010 6:02:33 AM MST  
**To:** Kastens Larry <larrykastens@hotmail.com>  
**Subject:** My apologies, Larry.

Dear Larry,

I am writing to see if I can make amends to you regarding the incident with the broken auto window. I had not realized that it was not resolved to your satisfaction until Mitzi called to tell me of your concerns about birder parking on the Peterson's property, and you mentioned it again in your letter to me regarding my special use permit application.

Evidently, at the time, I did not do the right thing, and I apologize for this. I was not sure what I *\*should\** have done. When I left the scene that day, I had the idea that, between you and the car's driver, you had come to an agreement about the best course of action to take. With hindsight, I can see I should have stuck around longer and asked more questions. I'm still not sure what the "right" thing would have been -- perhaps at the very least I should have notified *\*my\** insurance company, or at least given both of you that contact information. I remember that the birders mentioned to me that they were anxious to get back to the airport, as this was their last stop before returning home. I had no intention of absolving myself of the responsibility; I truly thought you had come to a satisfactory agreement between the two of you. I was evidently wrong, and as a result, you were left with ill effects of this, and it has resulted in some bad feelings toward me. If there is any way I can make amends to you at this late date, please let me know how I might do that. If not, please accept my sincerest apologies.

In a letter I received yesterday, the Petersons have instructed me not to use their property for birder parking. In order to comply, I have put new notices on my web site to that effect, and today I will put up a temporary sign on their property telling people that birders *\*must\** park on my side of the road. I will need to hire someone with the right equipment to create the extra parking spaces that you and I talked about between the parking I now have and the road. I plan to remove the mesquite next to Art's gate as well. I don't know

what equipment you have, but if you would be interested in being paid to do this job, let's talk about it. If not, I will be calling a landscaping firm later today. I will just need as many rough spaces as I can get while awaiting the decision of the county. I realize that they may not grant the permit.

I will be meeting with Keith Dennis at Planning & Zoning this morning at 10:00, and hopefully will have a better idea after that about where things stand. I would like to be allowed to continue having birders come here to see the wonderful birds, but I initiated this process with the county through my desire to be in full compliance with all the regulations governing such things, and obviously I will abide by whatever they tell me.

Sincerely,  
Mary Jo

**Mary Jo Ballator, Host**  
Ash Canyon Bed & Breakfast  
5255 E. Spring Road  
Hereford, AZ 85615  
520-378-0773  
<http://AshCanyonBandB.com>



**Shireen Truitt  
9787 Turkey Track  
Hereford, Az 85615**

Ash Canyon Bed & Breakfast  
Mary Jo Ballator  
5255 E. Spring Road  
Hereford, Az 85615

Dec 21<sup>th</sup> 2010

To Mary Jo Ballator,

I am writing in reference to the Special Use Permit that you are applying for allowing people access to your property for bird watching activities.

To access Spring Road people have to drive down Turkey Track Road which is a barely maintained dirt road. I have lived on Turkey Track for ten years and have noticed a significant increase in traffic over the past several years that I attribute to your business known as Ash Canyon Bed & Breakfast. I personally have witnessed as many as four vehicles heading in your direction, including two white six - eighth passenger vans. Only one house has been built on Turkey Track since 2000, an increase in traffic is not due to more residents.

My property is located to the east of Turkey Track and as prevailing winds come from the west, my house is continually in the path of clouds of dust from the road every time there is a passing vehicle. Having allergy issues I constantly clean dust inside my home and run three large room air cleaners 24/7.

Even although planning and zoning more or less told me that you have been allowing people to access your property for bird watching with no permit up until now, I feel that with a permit, traffic will increase due to advertising and other activity geared towards increasing revenues. My concern is the wear and tear on the road itself, the road will certainly suffer if an increase in traffic is allowed.

I also question your claim of operating a "one unit bed and breakfast rental", I may be wrong, but if memory serves me, your website used to advertise two or three casitas available. I have no personal vendetta against you, nor do I have anything against anyone trying to make a living, but in this case I feel that it is not appropriate to allow any excess unnecessary traffic on a dirt road.

Thank You for this consideration.

*Shireen Truitt*

Shireen Truitt

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**RICHARD C. HOYER**

3919 N Vine Ave #2  
Tucson AZ 85719  
Tel: 520-325-5310

E-mail: [birdernaturalist@me.com](mailto:birdernaturalist@me.com)  
<http://birdernaturalist.blogspot.com>  
<http://wingsbirds.com>

January 4, 2010

Mr. Keith Dennis  
Cochise County Planning & Zoning Commission  
1415 Melody Lane  
Bisbee, AZ 85603

Dear Mr. Dennis,

I am writing in support of Mary Jo Ballator's application for a special use permit for the Ash Canyon B&B on parcel 104-21-022. I have been there many times as a private individual as well as a tour leader guiding birders visiting Arizona. The very presence of feeding stations that host range-restricted bird species, such as that at Ash Canyon B&B, are a major draw for birders and ecotourists to Southeast Arizona. The Ash Canyon B&B is a requisite stop on any birding route in SE Arizona, and its presence is certainly a consideration when I make decisions on whether to visit the Hereford area or other parts of southern Arizona or give recommendations to birders who ask for my advice.

Sincerely,

*Richard C. Hoyer*

COCHISE COUNTY

JAN 06 2011

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Mr. Keith Dennis  
1415 Melody Lane  
Bisbee, AZ 85603

January 3, 2011

Dear Mr. Dennis,

I am writing in support of the nature-based tourism operation run by Mary Jo Ballator and the Ash Canyon Bed and Breakfast. I have worked in nature-based tourism and conservation in the Sierra Vista area since 1998, first as the naturalist at The Nature Conservancy's Ramsey Canyon Preserve and then as the operator of my own birdwatching and nature tourism business. As you may know, nature-based tourism, and birdwatching in particular, is extremely popular in southern Arizona. Each year, many thousands of people come to our area to enjoy its birds and natural wonders. Of course, their activities bring millions of dollars to local economies.

Among the few private landowners in southern Arizona who open their properties to visiting birders, Mary Jo's is one of the most popular and special. While the unique and quiet location has excellent habitat and wonderful birds, it is Mary Jo's warm personality, unparalleled level of knowledge, and generous hospitality that makes the experience memorable for so many people each year. In addition to the unique experience she provides, I consider her to be a goodwill ambassador for southern Arizona and the kind of person who leaves a positive and lasting impact on visitors to our area.

In the years that I have been visiting her property with birdwatching clients, I have never once encountered a problem with traffic, parking, noise, or dust. In fact, I find it to be one of the cleanest, most quiet and dust free areas among the many locations that birders visit in southern Arizona.

I strongly urge you to grant Mary Jo Ballator a Special use Permit from Cochise County for the continued operation of this jewel in the crown of tourist opportunities in southern Arizona.

Sincerely,  
Mark Pretti



Mark Pretti Nature Tours, L.L.C.  
2915 Keeling Rd.  
Hereford, AZ 85615  
(520) 803-6889  
[www.markprettinaturetours.com](http://www.markprettinaturetours.com)

COCHISE COUNTY

JAN 9 4 2011

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Christie Van Cleve  
4357 East Miller Canyon Road  
Hereford, AZ 85615  
520-803-9772

COCHISE COUNTY

JAN 14 2011

PLANNING

January 3, 2011

Mr. Keith Dennis, Planning and Zoning  
1415 Melody Lane  
Bisbee, AZ 85603

Re: Ash Canyon B&B, ParcelNnumber 104-21-022

To Whom It May Concern:

This is a letter in support of Ash Canyon B&B's application to allow birders into the yard for the purpose of viewing birds.

Ash Canyon is in the heart of some of the finest birding available in the United States. Birders from all over the world come to this area to see some of the Southeast Arizona endemic species that normally are seen only in Mexico. Ash Canyon B&B hosts the Lucifer Hummingbird in season and this is the ONLY place where it can be reliably viewed. This is very important to individual birders as well as tour companies. These individuals and tour companies bring in large amounts of money to Cochise County by eating meals and staying for periods of time in local hotels/motels.

Cochise County hosts two separate birding festivals, Wings Over Willcox in January and Southwest Wings in Sierra Vista in August. In short, birding has a huge impact on the economy of Cochise County. Part of this influx of birders is due to being able to access bird viewing of very specific species on people's private property. For instance, birders coming to Southwest Wings can only reliably see the Lucifer Hummingbird at Ash Canyon B&B. If they cannot visit this site, it will negatively impact that birding festival. In general, people visiting this area for birding will be negatively impacted because they will not be able to count on seeing Lucifer Hummingbirds at Ash Canyon (not to mention all the other hard to view endemics unless one knows where they are).

Also, it must be remembered that though this yard is open year round, there are only a few birders visiting except for April, May and August, a relatively short period of time when there are larger numbers of visitors.

My story is probably a good example of what can happen with people visiting private residences to see birds. I went to Ash Canyon and a couple of other properties to see specific species of birds. I was so impressed with the birding in the area that I ultimately bought a "second" home here, and then moved here permanently. This is not a terribly uncommon story among birders.

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It is important to me and many other birders that Ash Canyon B&B continues to be open to the public. I hope that you will consider this application favorably for my sake, and all the other individuals who have had the pleasure of viewing the wonderful variety of birds at Ash Canyon B&B.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christie Van Cleve", written in a cursive style.

Christie Van Cleve

cc: Mary Jo Ballator  
5255 East Spring Road  
Hereford, AZ 85615

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Mr. Keith Dennis  
Cochise County Planning and Zoning  
1415 Melody Lane  
Bisbee, AZ 85603

January 5, 2011

Subject: Mary Jo Ballator's Hummingbird Feeders

Dear Sir-

I am sending a letter in support of Ms. Ballator in her desire to keep providing access to her yard for birders who come to watch hummingbirds. My family and I visited her yard in 2009, having read about it in bird guides and on web sites. Like many other people we encountered there, we had traveled from distant states (Washington and New York, in our case) to see the birds attracted by her many feeders. The birders gathered there were quiet and respectful, with the loudest noises coming from snapping of photographs.

We ask you to allow Ms. Ballator to continue in her generous practice of opening her yard to birders from around the world who appreciate her efforts to provide people contact with these birds.

Birding is the fastest-growing hobby in the United States, and your county is one of the "hottest" birding areas in the country. Your support of Ms. Ballator will help sustain the birding tourist-trade that provides income to County residents.

Sincerely,



Catherine Conolly

2580 Magnolia Blvd. W.  
Seattle, WA 98199

COCHISE COUNTY

JAN 11 2011

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Tucson AZ  
January 8, 2011

Mr Keith Dennis  
Cochise County Planning and Zoning  
1415 Melody Lane  
Bisbee AZ 85603

Dear Mr Dennis,

Please include the undersigned among those who urge approval of an application from Mary Jo Ballator for a permit to operate her bird watching site at the Ash Canyon B&B on Turkey Track Road.

We are among the many who have enjoyed the opportunity to expand our knowledge of Arizona's wildlife at Mary Jo's. Her place is one of the many attractions that draw people from Tucson and greater distances to Cochise County.

Sincerely,



Tom Tucker



Jackie Tucker

7888 N Sendero Tres  
Tucson AZ 85704

COCHISE COUNTY

JAN 10 2011

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841 13<sup>th</sup> Ave N  
Clinton, IA 52732

Keith Dennis  
Cochise County Planning and Zoning  
1415 Melody Lane  
Bisbee, AZ 85603

Dear Mr. Dennis,

I am writing in support of Mary Jo Ballator. Her Ash Canyon B & B provides the opportunity for many people to see the birds which are native to and those which migrate through south eastern Arizona. Many tourists, and birders, come for just that purpose. I would hope that whatever can be done to accommodate the possibility of being able to view the birds there will be done.

Right now, because of SB 1070 many people have boycotted Arizona as tourists, etc. I personally know several. I would not want to discourage more birders and tourists from coming if this important location for birds is removed from the public.

I visited there last April and was enthralled with the knowledge she has and the simple way it is set up to view the birds. One of her knowledgeable neighbors was also there at that time and he was most helpful. I did not notice that the traffic was that heavy as to disturb neighbors. And the people coming are generally middle-aged or older adults who can come on weekdays. I do not know about the weekends.

I plan to visit again in the fall migration and certainly do not want to have change plans if this opportunity is taken away.

Sincerely,



Jane McCarthy

COCHISE COUNTY  
JAN 13 2011  
PLANNING

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January 14, 2011

Mr. Keith Dennis  
Cochise County Planning and Zoning  
1415 Melody Lane  
Bisbee, AZ 85603

Dear Mr. Dennis,

We were very upset when we heard Mary Jo's Ash Canyon B&B might be closed to visitors. We spent a week in your area last March and Mary Jo's was one of the high lights of our visit. We are planning another trip next year and would like to enjoy some of the same attractions as in 2010.

The birds in the Bisbee area are a marvelous tourist attraction. Please do all you can to keep all areas available to us.

Sincerely,

*Carl & Jean Wissinger*  
Carl & Jean Wissinger  
509 Ridgely Green Dr.  
Pineville, NC 28134

COCHISE COUNTY

JAN 15 2011

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COCHISE COUNTY

JAN 12 2011

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8 January 2011

Mr. Keith Dennis  
Cochise County Planning & Zoning  
1415 Melody Lane  
Bisbee, AZ 85603

Dear Mr. Dennis:

Ref.: Ash Canyon B & B  
Mary Jo Ballator

It is our opinion that the Ash Canyon B& B property affords both avid and novice bird watchers one of the finest opportunities to learn about so many different species of birds. Ms. Ballator is an interesting and learned "birder", very willing to share knowledge and experience with all visitors. Causing her to essentially make a commercial endeavor out of a hobby would be a disservice to so many.

We respectfully request that you reconsider enforcing permit requirements.

Yours very truly,

Fred J. & Mary Anne M. Beesley  
2300 El Portal Drive #61  
Bakersfield, CA 93309  
(661)836-3920

7

## Dennis, Keith

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**From:** Gardner, Peter  
**Sent:** Thursday, January 06, 2011 4:47 PM  
**To:** Dennis, Keith; Gardner, Peter  
**Subject:** FW: Mary Jo Ballator's Birdwatching Location

Peter Gardner, Planning Technician  
Cochise County Community Development Department Planning, Zoning, and Building Safety  
Division  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Phone: 520-432-9240  
Fax: 520-432-9278  
"Public Programs, Personal Service"  
[www.cochise.az.gov](http://www.cochise.az.gov)

-----Original Message-----

From: Rodney L. Brown, Jr. [mailto:[rbrown@cascadialaw.com](mailto:rbrown@cascadialaw.com)] Posted At: Thursday, January 06, 2011 4:29 PM  
Posted To: Planning and Zoning  
Conversation: Mary Jo Ballator's Birdwatching Location  
Subject: Mary Jo Ballator's Birdwatching Location

Hello,

I am writing in support of allowing Mary Jo Ballator to open her location in Ash Canyon to birdwatching. My wife and I visited there last year, and it was one of the best places we have ever been for birdwatching. We will return to Cochise County on future vacations because of this, and we have encouraged many of our friends to do the same. It's a great benefit for your County's economy. And it doesn't even seem like a commercial operation. She is simply opening her property to fellow birders, which is something that happens all over the country without any need for commercial permits. I hope you can find a way to allow this to continue.

Thank you for considering my comments.

Rod Brown  
2580 Magnolia Blvd. W.  
Seattle, WA 98199  
(206) 283-5591

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**Dennis, Keith**

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**From:** Richard Fray [rpfray@dakotacom.net]  
**Sent:** Saturday, January 01, 2011 10:26 PM  
**To:** Dennis, Keith  
**Cc:** Mary Jo Ballator  
**Subject:** Mary Jo Ballator, Ash Canyon B&B

Dear Mr. Dennis,

**Re: Special Use Permit for Ash Canyon B&B**

My name is Richard Fray. I operate Fun Birding Tours, a company based in Tucson, offering birding and wildlife guide services for individuals and groups in Southeast Arizona. I'm also a member of the Tucson Audubon Society board of directors, additionally serving on the development and membership sub-committees.

I'd like to register my approval of everything that Mary Jo does at her wonderful Ash Canyon B&B. I regularly visit with birding clients from Arizona, the US and around the world. Everyone I've ever taken there has been impressed with Mary Jo herself, the incredible place she has nurtured so carefully and, most importantly for birders, the amazing array of birds that visit her extraordinary property.

Chief amongst those birds is a fascinating and beautiful species, the Lucifer Hummingbird. It's a fact that Ash Canyon B&B is the most reliable place to see this gem of a bird anywhere in the whole of North America (north of Mexico). This is one of the main reasons so many people visit Ash Canyon B&B from the furthest corners of the World.

Birds don't pick places at random; they have very specific needs. Ash Canyon B&B attracts one of the largest ranges of birds of any property in Arizona. This is testament to the unique combination of prime canyon location, quality of habitat and quality of stewardship. Ash Canyon B&B could not be replicated anywhere else.

Southeast Arizona is blessed with a unique combination of factors which make it one of the most diverse and important wildlife hotspots in the world. The number of people brought into Sierra Vista and Cochise County by wildlife tourism is highly significant, but more often than not this huge economic benefit goes unnoticed and under-appreciated by the community at large. Birding is now the biggest pastime in the US - more popular, even, than golf. It also remains the fastest growing pastime in the US. Thankfully, the birding community is starting to get its message across. For example, following a recent presentation by Tucson Audubon Society, the Pima Association of Governments committed to a resolution that recognizes the importance of wildlife tourism to Pima county and Southeast Arizona and intends to capitalize on this popularity. When you have a natural resource as financially rewarding as this, the sensible inclination is surely to protect it.

My business relies on businesses like Ash Canyon B&B. Without them my job would be considerably more difficult to carry out and the experience would be considerably less enjoyable for my clients. Without businesses like Ash Canyon B&B, fewer people would visit Southeast Arizona and businesses like mine would suffer.

In conclusion, I would be appalled if Mary Jo were not granted this license. The negative impact her business has on the community is minimal to the point of being almost non-existent, whilst the positive impact is absolutely massive. It would be a travesty if Mary Jo was forced to close her doors to the public. Thousands of people all over the world would be deeply disappointed. I would

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be nigh on inconsolable.

Mary Jo deserves a medal for what she has done. She does not deserve the threat of being closed down.

Please feel free to contact me to discuss any of the above points. If possible I will attend the hearing personally, although my schedule for next month is unclear at present. If I am unable to attend, you have my permission for the above statement to be read on my behalf, if this is possible.

Sincerely,  
Richard Fray

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<b>Richard Fray</b>	<b><u><a href="http://www.funbirdingtours.com">www.funbirdingtours.com</a></u></b>
Birding Guide	Office: (520) 323-4234
Tour Leader	Cell: (520) 490-9287
<b>Fun Birding Tours</b>	<b><u><a href="mailto:richard@funbirdingtours.com">richard@funbirdingtours.com</a></u></b>

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**Dennis, Keith**

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**From:** Tony Battiste [tony.battiste@yahoo.com]  
**Sent:** Thursday, December 30, 2010 1:40 PM  
**To:** Dennis, Keith  
**Subject:** Fw: Ash Canyon B&B Special Use Permit

To Whom it May Concern

We are friends and neighbors of Mary Jo Ballator who resides in Ash Canyon, parcel #104-21-022. We understand that she has applied for a special use permit to continue allowing birders to visit her property to view and admire the many species of birds drawn to her many feeders.

My wife and I moved to Hereford from California in 2003. Prior to moving here, I made countless number of trips to SE Arizona drawn here specifically by the bird-watching opportunities. On my earliest trips, a regular stop was at a private residence in Portal owned by Sally Spofford. This private residence was WORLD renowned for being the only place in the southwest where a birder was all but assured of viewing one of the rarest hummingbirds in the continental United States. Ms Spofford's feeding station was one of the first private residences in the southwest opened to the public for bird watching enthusiasts.

Spofford's efforts led to others following in her footsteps. The Paton's residence in Patagonia, Beatty's Guest Ranch in Hereford are other examples of private residences that have opened their property to birders from around the world. Each and everyone of these birders visiting these locations, whether local or from the four corners of the world, contribute to the local economies by spending money on lodging, food, vehicle rentals and and other tourist related expenditures. While personally visiting Ms Ballator's garden, I have talked with individuals from Ireland, Denmark, Sweden, Germany, U.K., and Australia, and as many as 30-40 states. Each and everyone of these birders were there because of the knowledge that they were going to see unusual bird species that they may not have encountered otherwise.

With all that said, The Planning and Zoning Commission should grant Ms Ballator's request for a special use permit so that she can continue with this vital service to the bird-watching community that so desperately counts on locations such as hers to enhance their visits to our county.

My wife and I are in total support of Ms Ballator and pray that the county takes into consideration the impact locations such as hers has on the economy of the county.

Sincerely,

1/31/2011



**Dennis, Keith**

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**From:** Rick Romea [rickorcindy@hotmail.com]  
**Sent:** Wednesday, December 29, 2010 3:39 PM  
**To:** Dennis, Keith  
**Cc:** Mary Jo  
**Subject:** Ash Canyon B&B --- parcel number 104-21-022.

Mr. Keith Dennis,

We are writing to urge you to support Mary Jo Ballator's request for a special use permit to allow her bird feeding station to remain open to the public.

As the premier site in Southeastern Arizona for watching birds, and particularly hummingbirds, Mary Jo's yard (parcel number 104-21-022; 5255 E. Spring Road, Hereford, AZ 85615) is a valuable resource for the Sierra Vista - Herford community. People travel to Cochise County from all over the US, and the world, to visit this unique yard. Her yard is on the itinerary of virtually every 'world-class' tour company that visits our area. Our local birding festival, 'Southwest Wings', which attracts many hundreds of tourists to Sierra Vista in August, would be unable to offer a first-rate birding experience without the cooperation of the Ash Canyon B&B. We probably do not need to remind you of the enormous impact that all these visitors have on our local economy.

The types of people who visit the Ash Canyon B&B are typically upscale nature-lovers who are quiet, respectful, and mature. These are not the kind of folks you would expect to annoy neighbors or make a lot of noise. The busy seasons for birdwatching in Cochise County are Mid-April to Mid-May, and early August; for most of the rest of the year, there are few visitors to Mary Jo's yard.


We have personally known Mary Jo Ballator for 8 years, and we know her to be responsible and very respectful of her neighbors and our area in general. We are sure that she would be very responsive to any of her neighbors' concerns.

Sincerely,  
Rick Romea & Cindy Sprecher

6033 South Apache Rose Trail  
Hereford, AZ 85615

Tel: 520-803-1160  
email: [rickorcindy@hotmail.com](mailto:rickorcindy@hotmail.com)

1/31/2011





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**Dennis, Keith**

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**From:** Mary Jo Ballator [2mjb@MINDSPRING.COM]  
**Sent:** Monday, December 27, 2010 5:44 PM  
**To:** Dennis, Keith  
**Subject:** Fwd: parking at Ash Canyon

Dear Keith,

Please consider this a letter of support to add to my file, if you would be so kind. It is typical of the notes I receive from visitors from all over the world who come here. I am so grateful that they take the time to write.

Best wishes,  
Mary Jo

**Mary Jo Ballator, Host**  
Ash Canyon Bed & Breakfast  
5255 E. Spring Road  
Hereford, AZ 85615  
520-378-0773  
<http://AshCanyonBandB.com>

Begin forwarded message:

**From:** "Kevin Morgan" <[cowboyinbrrla@cox.net](mailto:cowboyinbrrla@cox.net)>  
**Date:** December 27, 2010 4:56:34 PM MST  
**To:** <[2mjb@MINDSPRING.COM](mailto:2mjb@MINDSPRING.COM)>  
**Subject:** RE: parking at Ash Canyon

Mary Jo,

I didn't really have anything to say on the parking, but seeing your post reminded me to write and give you a big "thank you" for all you've done over the years with welcoming visitors to your property. A friend and I were able to visit briefly in August this year (I've been once before), and at a time of year when most of us are taking stock of the meaningful things in life I thought I should speak up and thank you.

I hope that 2011 is a great year for you and the B&B and that all the special birds around you continue to bring joy to you and your visitors.

With best wishes,

Kevin Morgan  
Baton Rouge, Louisiana

1/31/2011

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Date: Sun, 26 Dec 2010 11:17:06 -0700

From: Mary Jo Ballator <[2mjb@MINDSPRING.COM](mailto:2mjb@MINDSPRING.COM)>

Subject: SE AZ: Ash Canyon B&B Parking Announcement

Effective immediately, birder parking at Ash Canyon B&B is allowed =  
\*only\* on my property, which is on the right side of Spring Road. I =  
will be creating some additional spaces besides those that currently =  
exist, but for now, you may park anywhere in my driveway, including =  
right behind my car, as long as you are willing to move your vehicle in  
=

case I need to get out. Please do \*not\* park to the left of the road.  
=

If you have questions, please call in advance of your visit.=20

Thank you. =20

Mary Jo

Mary Jo Ballator, Host

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Ash Canyon Bed & Breakfast

5255 E. Spring Road

Hereford, AZ 85615

520-378-0773

<http://AshCanyonBandB.com>

Robert A. Behrstock  
*NATUREWIDE IMAGES*

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15 January 2011

COCHISE COUNTY

Mr. Keith Dennis, Planner  
Cochise County Planning & Zoning Commission  
1415 Melody Lane  
Bisbee, AZ 85603

JAN 13 2011

PLANNING

**Re: In favor of Special Use Permit Application for Ash Canyon B&B**

Dear Mr. Dennis,

I am writing on behalf of Mary Jo Ballator and Ash Canyon B&B's Special Use Permit for (Parcel #104-21-022). I have been a resident of Cochise County for approximately 7 ½ years, living in lower Ash Canyon not far from Mary Jo. I am a birding and nature tour leader, biological consultant, writer, and nature photographer. I visit Ash Canyon B&B as a private individual and go there with my tour clients.

Over the years I have developed considerable familiarity with bird watching sites. I have led birding tours for a living since 1980, having started one company in Houston, Texas, worked for another in Tucson, and subsequently worked for several others, including my own company *Naturewide Images* which provides a variety of services. While living in Houston, I was also an employee of Fermata, Inc., a company that provides cities, counties, states, countries, and private entities with economic and biological research and consulting for travel and tourism (mainly ecotourism) development. Fermata was founded with the concept that people will protect the environment only after they become aware of the financial benefits that are brought about by environmental protection. A keystone of Fermata's birding trail development is education of and cooperation with local communities throughout the area impacted by a birding trail. Birding trail maps do draw tourists to targeted areas and subsequent economic impact analysis has borne out the immense amount of money generated by ecotourism.

To see several reports on the economic impact of birders and birding, you may wish to consult the following link:

[http://www.fermatainc.com/?page\\_id=937](http://www.fermatainc.com/?page_id=937)

As an employee of Fermata, I performed site assessments for six birding trails in Texas (over 500 sites), the coastal Virginia trail (100+ sites), the World Birding Center complex in South Texas, and proposed trails in several other states. Additionally, I have led birding tours throughout the U.S. Mexico, parts of Canada, East and West Africa, central Asia, the Caribbean, and many of the countries in central and South America. In other words, I know something about places to go birding.

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Robert A. Behrstock  
*NATUREWIDE IMAGES*

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People in Arizona are generally unaware of the economic impact of ecotourism because there's not a semitrailer truck going down Interstate-10 that says: "Ecotourism" on its side. Ecotourism, like tourism in general, provides jobs for travel agents, tour guides, restaurant cooks and waiters and their food suppliers. It generates revenue at car rental agencies and gasoline stations, and lodging nights in hotels, motels, and B&Bs. Ecotourists frequently extend their stays with visits to cultural and historic sites, as well as galleries and other stores.

To bring this back to Ash Canyon B&B: This ecotourism venue hosts visitors not only from Sierra Vista (which bills itself as "The Hummingbird Capital of the U.S.") but from all over the world, representing independent travelers, members of organized tour groups, and participants of nature festivals including the Southwest Wings Birding and Natural Festival held locally each August. During spring or in the monsoon season, it is not uncommon to visit Ash Canyon B&B and see ten or twenty birders enjoying the diversity of birds, especially hummingbirds, visiting the feeders, and hearing people speaking Dutch, French, or a Scandinavian tongue. These people are purchasing food, gas, and hotel rooms—supporting the local economy. To Mary Jo's credit, she provides seats, shade, a variety of feeders, plants that attract butterflies, hundreds of pounds of sugar (for hummingbird feeders), tons of various kinds of seed, and friendly and sometimes non-stop bird identification and natural history interpretation for her guests. The resource (birds) is provided for free by Nature but without a user-friendly venue available to the tourist, it is likely to be passed by. Note that nature tourism at Ash Canyon is not—like fishing or hunting—an extractive enterprise. To broaden that concept, every hummingbird, warbler, woodpecker, thrasher, or tanager that appears at Ash Canyon B&B can be seen over and over again by visitors. Guests paying an entry fee at Mary Jo's generate the gate fee that allows her to keep her feeders full. Beyond that, those birds are selling gasoline, snack food, restaurant meals, hotel nights, travel books, and car rentals throughout SE Arizona, and, just as importantly, elevating the understanding of the aesthetic and financial values of habitat protection.

This source of community revenue should not be dismissed lightly and to deny a special use permit for this facility would be a loss not only for Mary Jo, but for the bird watching community and all the associated business that profit from it at so many levels.

Thank you very much for considering this matter.

Very sincerely,



Robert A. Behrstock  
Owner, *Naturewide Images*

We come to Arizona several times a year  
and would greatly miss the chance to see  
several birds up close. 4

Sincerely,

Ann and Don  
Hughes

Dear Kirk Dennis,

I am writing this letter in hopes that  
Mary Jo Bellator will be granted a permit to operate  
her bird watching site on the grounds of

West Canyon B+B.

We visit her yard whenever we are  
in the Henderson area and love to see the  
variety of birds at her feeders.

January 1911

yard and her knowledge of birds  
gave what they most enjoyed.

You must know that birders are  
quiet and careful and watchful  
people. To be otherwise is to miss  
seeing Nature that in some cases you  
have spent considerable time and  
treasure to view.

We were struck by how quiet and  
respectful Mary's place is.

When you ponder your decision re-  
garding her land use, please ask your-  
self if there is a more profound way  
to bring tourism dollars to your  
country than having little refugees  
like Mary go's for people from all  
over the country and some other na-  
tions to sit for hours admiring the  
flora and fauna of your region.  
Each of us vowed to return.

Please let us continue to sit in Mary's  
garden. Thank you.  
Diane Lund  
Don Hotwarth

Dear Mr. Dennis,

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It has come to my attention that  
you are considering shutting Mary  
go Salator's yard in Ash Canyon  
to the public who come to sit in  
her yard to visit with her and to  
watch birds.

My husband and I came to that area  
of the country 2 years ago in May for  
no other reason but to bird. We had  
a room at the beautiful Casaca San  
Pedro Bldg, but we spent six hours in  
Mary go's chairs watching and learning  
about hummers and orioles that we'd  
never see in our native Minnesota.

There were birders from all over the  
world in her yard that day and we  
learned so much about the birds and  
your country that we vowed to come back  
my aunt and uncle from Seattle have now  
come down twice, and again Mary go's  
←



Bisbee. National and international  
birding publications consistently  
list Bisbee and Mary Jo's place  
is included.

Enjoy the site and experience  
the wonders of the wildlife  
in your backyard ~~and before you try~~  
~~to regulate or eliminate it.~~

Be a smart businessman  
and have a heart concerning  
your fellow citizens and  
visitors to your very unique  
state. Sincerely, Gail Diendorf

MR. Dennis,

I would like to  
thank you in advance in considering  
your support of Mary Jo Billster.  
my first visit to Arizona was  
to enjoy all Mary Jo and  
other birding sites had to offer.

I am sure you are aware of  
all the tourist money birding  
brings to the state and especially

# SPECIAL USE: Docket SU-11-01 (Ballator)

\_\_\_\_ YES, I SUPPORT THIS REQUEST

Please state your reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: \_\_\_\_\_

SEE ATTACHED LETTER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S):

ARTHUR V. DOUGLAS

SIGNATURE(S):

Arthur V. Douglas

YOUR TAX PARCEL NUMBER:

104-21-0209

(the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS

5242 EAST SPRING ROAD, HERETERO AZ  
85615

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on January 31, 2011 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the pubic hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis

Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: [kdennis@cochise.az.gov](mailto:kdennis@cochise.az.gov)

Fax: (520) 432-9278

G

January 25, 2011

COCHISE COUNTY

JAN 25 2011

PLANNING

Mr. Keith Dennis  
Cochise County Planning and Zoning Department  
1415 Melody Lane #E  
Bisbee, Arizona 85603-3037

Re: Docket SU-11-01 Request by Mary Jo Ballator for Special Use Authorization for Cultural, Nature of Historic Exhibit at her property per section 607.31 of the Zoning Regulations.

Mr. Keith Dennis:

A Special Use Authorization to allow and encourage the public direct access to Ms. Ballator's property without control of visitor numbers turns our residential setting into a commercial setting which I never anticipated would happen when I bought my property from family friends in the early 1990s. Developing the Ballator property into a broader public-access birding site also diminishes the quiet and secluded nature of this natural setting. When I took my proposed offer on my land to our family lawyer he indicated that given the zoning and status of the other properties within the area and the private road status granting ingress and regress to residents only, that barring a code change, the area should remain strictly residential without farther development.

It is very understandable that birders to southern Arizona would like multiple sites to view the bird fauna of the region. But the question is should this infringe on a residential neighborhood which has prided itself on its isolated and quiet setting? Allowing a large number of birders into the area with associated traffic noise also threatens to disperse more shy birds such as the Elegant Trogan, Montezuma's Quail and a number of rare owls and hawks. From my house I can clearly hear the car doors of birders being shut, people talking and laughing and cars starting up and taking off or beeping from automatic door locks being engaged. This area is zoned for each house to be located on one or more acres, but allowing large numbers of visitors to come into the neighborhood would cancel any advantage this current zoning has in keeping the area peaceful and secluded.

Entrance to the bed and breakfast and birding area is along Spring Road which is not maintained by the county and which is a single lane road with ingress and regress right-of-ways for the residents and utility company. The road is not designed for public use and cars have to wait at either end of the road approaching our properties in order to let the flow of traffic through. During peak birding periods in the spring and late summer this road carries a lot of traffic up to the Ballator birding area, with easily 10-20

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cars per day and probably higher during rare bird sightings. Thus the opening up of the property to direct public access creates excess traffic with wear-and-tear on the road. Road improvements should not be at the expense of the other residents along the road who would end up constituting a small percentage of the road traffic relative to the traffic from birders. Dust development is directly related to the amount of traffic a road receives and it has become obvious that the birder traffic induces a dust problem which affects the vegetation and leads to allergy problems.

Per the request by Mary Jo Ballator to have her property zoned

1. Is it legal to open up a private road (i.e. Spring Road) to public ingress and regress?
2. Do the two 7.5 foot easements really provide for an acceptable entrance and exit route for both the public and residents, especially relative to large vans and school buses full of birders which can slow or at times stop traffic? This will be a bigger problem in 2011 because the traffic turn-around area owned by neighbors is no longer available for birders (see #5 for detail).
3. Who should bear the brunt of maintaining the road which clearly is marked as not being maintained by the county? The birding visitors can easily increase road traffic by tenfold during peak times (if not higher). This increases dust and noise pollution.
4. What are the liabilities per the public entering private property surrounding the birding area, including the private road itself? Will insurance be carried by the person issued the permit to cover accidents on nearby property associated with the public wondering onto that property? Or are the nearby neighbors now left with the burden to increase their liability insurance due to a public site being opened up adjacent to their residential property?
5. The main area which provided parking for birders in the past was on an adjacent property owned by the Petersons. They have now ended their agreement granting permission to Ms. Ballator for bird watchers to park on their property. In a recent letter I received from Ms. Ballator she indicated that spots for 7 cars would be made available on her property after the removal of some mesquites, but given the heavy demand periods as seen last summer, especially during the Wings Festival, 7 slots would not be sufficient. This raises questions on how traffic and parking control could ever be maintained. With the loss of the parking space across from Ms. Ballator's property, it would no longer be feasible for large busses or vans to turn around in the area.
6. As a public area what type of toilet facilities are going to be available? Given that the peak birding season has seen a large number of birding tours visiting your home, individuals in the tour do not have the luxury of getting in their own car and driving 4 miles to the closest public restrooms (i.e. Nicksville gas station and restaurants).
7. Birders prefer viewing birds early in the morning and at sunset, but is this compatible with a residential area where 9AM-5PM might be a period that causes the least amount of disturbance? Having birders arrive at 5:30AM or 6:30AM is not acceptable for a residential setting.

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8. If a special use permit under zoning regulation 607.31 were to be considered, what is the life time for such a permit? Is the permit required to be renewed on a given schedule or is the permit permanent and grandfathered into the property? If the latter is true this enhances the sell ability of the property relative to cash flow but it also potentially reduces the desirability of surrounding property.
9. There are many public areas for bird watching throughout the Coronado Memorial, The San Pedro House, Ramsey Canyon Preserve and the Coronado National Forest. These areas have been set aside for the public to use freely with adequate parking, toilet facilities (in most cases) and well maintained roads for their class. These are the areas that the public should be encourage to use and residential areas with acreage requirements for parcels of land should be kept residential and not infringed upon by commercial activities.

Respectfully,



Arthur V. Douglas, PhD.

5242 East Spring Road

Hereford, Arizona 85615

Parcel 104-21-020 9

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# SPECIAL USE: Docket SU-11-01 (Ballator)

COCHISE COUNTY

JAN 31 2011

YES, I SUPPORT THIS REQUEST

Please state your reasons:

PLANNING

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☒ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

Please see attached sheet

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S):

DAAYL E. PETERSON

(for E Peterson and other

SIGNATURE(S):

Dayl E Peterson

family members)

representing the Peterson Trust

YOUR TAX PARCEL NUMBER:

104-21-025

(the eight-digit identification number found on the tax statement from the Assessor's Office)

170 Flynn Ct. Lake Lane, NC 28746

YOUR ADDRESS

5306 S. Turkey Track Rd, Hereford AZ 85645

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. Written comments must be received by our Department no later than 4 PM on January 31, 2011 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.

RETURN TO: Keith Dennis

Cochise County Planning Department

1415 Melody Lane, Building E

Busbee AZ 85603

Kdennis@cochise.az.gov

for 520-432-9278  
A



Mr. Keith Dennis  
Planning Dept., Cochise County  
1410 Melody Lane, Bisbee, AZ 85603

Date: January 26, 2011

Subject: SPECIAL USE: Docket SU-11-01 (Mary Jo Ballator, Parcel 104-21-022)

Dear Mr. Dennis:

Below are the comments on the SPECIAL USE request from the Peterson Trust which owns the adjacent property at 5306 S. Turkey Track Rd, Parcel 104-21-025. We OPPOSE the request since we believe that protecting the residential environment in our area is critical and we want to ensure that our properties, roads and quality of life are not adversely affected by changes in use of adjacent properties. Specifically:

- 1) **Property Values.** We feel that the use of her property as a bed and breakfast has no significant impact on our property values, but that use of her property as a public access birding and viewing area will have a highly negative impact on the value of our property.
- 2) **Parking** The verbal parking permission which was given to Ms. Ballator several years ago has been revoked due to the increased use of our property for parking and turnaround by visitors to the Ballator property (and the increased liability risk inherent in that use). We intend to build a fence to prevent unauthorized use of the property.

As far as we know Ms Ballator has no plans for enlarging the parking area on her property to accommodate large numbers of visitors. If she is allowed to use the property as a bird viewing area for the general public she should be required to provide parking for those visitors inside her own property boundaries.

- 3) **Liability Insurance.** However even with "private property, no trespassing signage", or a fence, there is no guarantee that people won't wander onto the adjacent property. If Ms. Ballator is using this as a birding/viewing area, she must be required to have liability insurance to cover potential injuries in such instances.
- 4) **Public Rest Rooms.** Large numbers of visitors to the property will require providing rest rooms for their use. Since the nearest newest public rest rooms are in Hereford, will the county provide these facilities or would Ms. Ballator?
- 5) **Road Maintenance.** Our understanding is that the road leading past Wicks to the Trust property, and the Douglas and Ballator properties, is not a public right of way. An increase in car, truck and bus traffic would negatively impact the already narrow and rough road. Which raises the question of maintenance and dust control: is the county going to assume responsibility for maintaining the road as a public right of way when it is the bus and high volume car traffic causing damage? Or perhaps if Ms. Ballator is using her property as a birding area and charging people to use it, she should pay for maintenance?

We appreciate your time and consideration of our opinions.

EB Peterson, 1108 Second St. W., Lemmon SD 57638 and 5306 S. Turkey Track Rd, Hereford AZ 85615  
Daryl and Jackie Peterson, 170 Flynn Court, Lake Lure NC 28746  
Diane (Peterson) and Dale Aspengren, 2029 NW 20<sup>th</sup> Loop, Albany OR 97321  
Greg and Cathy Peterson, 744 W. Via De Arboles, Queen Creek AZ 85242

*Daryl Peterson*  
*Jan 26, 2011*

*A*

# SPECIAL USE: Docket SU-11-01 (Ballator)

COCHISE COUNTY

JAN 31 2011

PLANNING

\_\_\_\_ YES, I SUPPORT THIS REQUEST

Please state your reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☒ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: \_\_\_\_\_

*Residential Property should not be used to Support  
Commercial Enterprise.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S): JAMES W CARNEY

MARGARET A. CARNEY

SIGNATURE(S): *James W Carney*

*Margaret A. Carney*

YOUR TAX PARCEL NUMBER: 104-24-011-2 (the eight-digit identification number found on the tax statement  
from the Assessor's Office) 5505 E ASH CANYON ROAD

YOUR ADDRESS \_\_\_\_\_

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RETURN TO: Keith Dennis

Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: [kdennis@cochise.az.gov](mailto:kdennis@cochise.az.gov)

Fax: (520) 432-9278

*C*



# SPECIAL USE: Docket SU-11-01 (Ballator)

\_\_\_\_ YES, I SUPPORT THIS REQUEST

Please state your reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☒ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

*Some years ago we voted to not allow "business" in our area - Now they want OK to bring bus loads of people out & charge \$5.00 per person / Parking? No parking on B & B area but using neighbors property to park. - Owners in North D & probably will be selling - Not a good idea to have buses etc parked on Area (property) to sell! - NO!*

(Attach additional sheets, if necessary)

PRINT NAME(S):

*Cleo Bodenhamer*

*Howard G. Bodenhamer*

SIGNATURE(S):

*Cleo Bodenhamer*

*Howard G. Bodenhamer*

YOUR TAX PARCEL NUMBER:

*10421016* <sup>004</sup>

(the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS

*9953 Deer Trail - Hesperus - AZ. 85615*

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COCHISE COUNTY

JAN 26 2011

PLANNING

*G*



# SPECIAL USE: Docket SU-11-01 (Ballator)

X

YES, I SUPPORT THIS REQUEST

Please state your reasons:

ON CONDITION THAT ALL  
PARKING BY THE PUBLIC BE ON  
SUBJECT PARCEL ONLY; OTHERWISE,  
OFF-SITE IMPACTS APPEAR TO BE  
MINIMAL.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

JOHN L. CHAPMAN

FLORENCE A. CHAPMAN

SIGNATURE(S):

John L. Chapman

Florence A. Chapman

YOUR TAX PARCEL NUMBER: 104-21-023 B

(the eight-digit identification number found on the tax statement

from the Assessor's Office)

YOUR ADDRESS

9995 DEER TRAIL, HEREFORD AZ 85615-9693

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Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: kdennis@cochise.az.gov

Fax: (520) 432-9278

COCHISE COUNTY

JAN 14 2011

PLANNING

A

15 DEC 2010

TO COCHISE COUNTY PLANNING & ZONING  
COMMISSION.

RE: APPLICATION FOR SPECIAL USE PERMIT FOR  
CULTURAL, HISTORIC AND NATURE EXHIBITS  
(ZONING REGULATION 607.31) ON PARCEL  
104-21-022.

1. WE OWN PARCEL 104-21-023B6 IN  
THE VICINITY OF THE APPLICANT.

2. SINCE THE OFF-SITE IMPACT OF THE  
PROPOSED LAND USE APPEARS MINIMAL,  
WE SUPPORT THE APPLICATION; ON CONDITION,  
THAT SUFFICIENT PARKING IS PROVIDED ON APPLICANT'S  
PROPERTY AND NOT ON NEIGHBOR'S PROPERTY.

John L. Chapman  
JOHN L. CHAPMAN

Florence A. Chapman  
FLORENCE A. CHAPMAN

CY FURN:  
COCHISE COUNTY  
PLANNING DEPT.  
ATTN: KEITH DENNIS  
AND APPLICANT.  
JOHN L CHAPMAN  
9995 DEER TRAIL  
HEREFORD AZ 85615

COCHISE COUNTY  
DEC 20 2010  
PLANNING

6

# SPECIAL USE: Docket SU-11-01 (Ballator)

☒

YES, I SUPPORT THIS REQUEST

Please state your reasons:

*This brings a nice element  
to the area. Birding -*

☐ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

*Anna Lee Cooper*

SIGNATURE(S):

*Anna Lee Cooper*

YOUR TAX PARCEL NUMBER:

*104-20-015*

(the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS

*4958 E GREEN OAK Lane, Hesperia, AZ 85615*

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Fax: (520) 432-9278

COCHISE COUNTY

JAN 05 2011

PLANNING

*G*



# SPECIAL USE: Docket SU-11-01 (Ballator)

☒ YES, I SUPPORT THIS REQUEST

Please state your reasons: No damage to the land or forest

No loud noise.

If they use it now, might as well make it legal.

☐ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

PETER J. CORKE

SHIRLEY A. CORKE Received

8 Nov 2010

SIGNATURE(S):

Peter J. Corke

YOUR TAX PARCEL NUMBER: 104-21-005 6 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 9674 TURKEY TRACK RD, HEREFORD, AZ 85615-9692

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RETURN TO: Keith Dennis

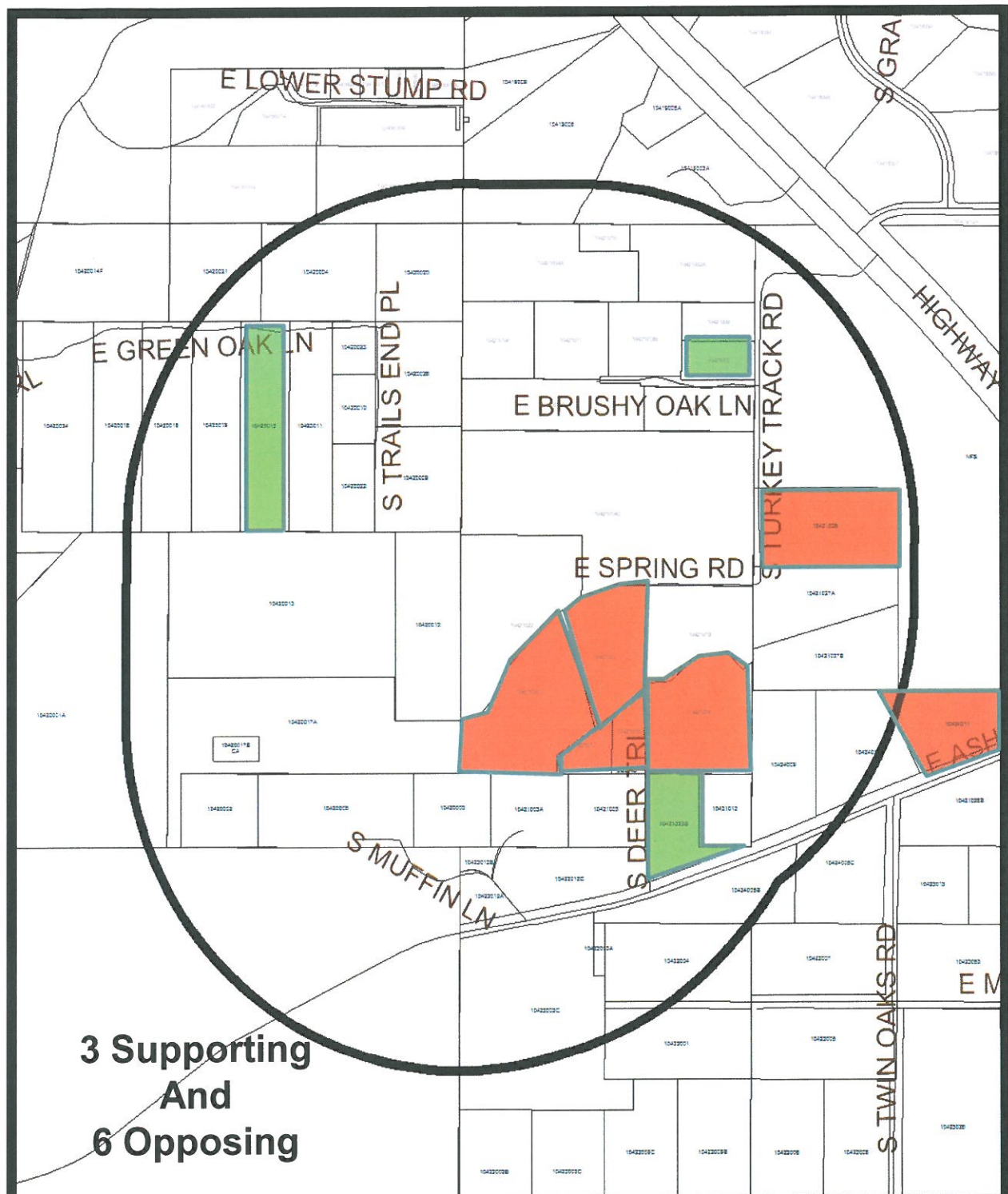
Cochise County Planning Department  
1415 Melody Lane, Building E  
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COCHISE COUNTY

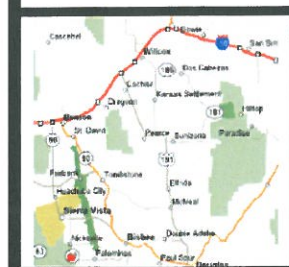
JAN 20 2011

PLANNING

6



**3 Supporting  
And  
6 Opposing**



**SU-11-01  
Support and Protest  
1,500 foot Buffer**

This map is a product of the  
Cochise County GIS



0' 1" = 50'

H